B & Gus

App. F. IX-4

1938 (P.P.)

File No. 89/4

Previous References

GM 57-26-(102)

Serial Nos. 1 to 5

PRESERVED

Later References

Law 78: 32 & 142

GS 186-34-1

P 160

General and Revenue Secretariat.

Serial Nos. 1 to 5

Part B for March 1931

SUBJECT.

Retrocession of jurisdiction over Railway lands in the State to the Mysore Government.

DEWAN'S MINUTE.

FILE No. 192 .

C. Secy

For a note on the subject discussed in the accompanying papers.

2. We must write in reply to ~~for~~ retrocession of jurisdiction over the Ry Lands in the States. If it is true we did so, a suitable draft may be put up to the Residency, stating that having regard to the changed conditions of the times, it does not seem necessary that the jurisdiction should be retained as long as the British Govt. so that it might well be transferred to the States.

We have made a request for the retrocession of jurisdiction in the Cochin States. This request ~~for~~ in connection with the Ry Lands would be in the nature of a logical step from that point.

JM
30-12-25

Ry Secy with Compts for a note in the first instance

Ry
31/12/25

Examiner
2
D. No. 11.0.20: 57

Serial No.

This is also one of the subjects under the consideration of Sir Harcout Butler's -- Committee and as all the previous correspondence with the Government of India on the subject was dealt with in the Chief Secretariat, I think noting on the question with reference to the previous correspondence may best be done in the Chief and Law Secretariats. The representation submitted in regard to the Civil and Military Station is not also available to supplement the information contained therein as regards Railways.

As regards jurisdiction now exercised over Railway lands, refererence is invited to Railway Secretary's Note dated 5th September 1916, and as stated therein, the jurisdiction over the Bangalore-Harihar and Yeswanthapur-Hindupur sections continues to remain with the Government of India, which now is the intention of the Mysore Government to have retroceded.

Slip X

I gather from the Government of India note that their object in retaining the jurisdiction does not appear to be based on any political grounds but only with a view to have a unitary system of Police and Judicial control on a through line of Railway in the interests of public safety. I believe, the various enactments in force in British India are respected and observed by the Mysore Courts and as regards administration and justice

WD 364—GPB—2,000—7-9-23

Serial No.

Skip 2

Mysore, I believe there appears to be no difference whatsoever except that it is administered by competent Judicial Officers of the State and therefore probable mis-carriage of justice in any way cannot be advanced as a reason for the retention of jurisdiction by the Government of India.

Kolar Gold Fields Railway is also one of the Mysore State Lines worked by the Madras and Southern Mahratta Railway where jurisdiction rests with the Mysore Government. In the adjoining portion of the Railway, Bangalore to Jalarpet, the Madras Government has the jurisdiction. Apparently no complications have arisen by the exercise of concurrent jurisdiction in the adjoining areas of lines worked by the same Agency nor have any complaints been received from the Mining Board or the Madras and Southern Mahratta Railway Co., on that ground.

The Mysore Railway Regulation exactly follows Indian Railway Act and the General Rules framed thereunder are equally applicable to Mysore and every amendment and addition to the same have also been brought into force on Mysore Railways. Punishments and penalties provided for in the Mysore Railway Regulation and the Rules made thereunder are practically the same and reference is invited to Chapter IV - Part II of the Mysore Ry., General and Subsidiary Rules.

WD 364—GPB—2,000—7-9-28

Serial No.

Apart from the question of asking the Government of India for the retrocession of the jurisdiction over the Railway lines within the Mysore territory, another important question has now risen of asking them to allow us to build Railways within their territory and also permit us to exercise jurisdiction in the British territory. The extension of the line from Chamarajanagar to Kollegal would be the first example and the construction of the line from Hosa-Agrahara to Fraserpet is soon to follow. In the course of conversations, I had with Sir Austen Hadow, Chief Commissioner of Railways recently I understood from him, that there is every likelihood of the Government of India making a departure from their policy in the case of Kollegal-Chamarajanagar Railway and he desired me to address him on the subject which will be done in due course.

I think the question of jurisdiction should be examined in detail in the Chief and Law Secretariats with reference to the remarks bearing [redacted]er enactments, Arms Act., etc.,

Secretary for Railways,
Government of Mysore.
10th January 1929.

20.5]

Chief Secy with Compliments.

WD 364—GPB—2,000—7-9-28

Serial No.

1. Bangalore - Harihar
2. Yeswantpur - Hindupur
3 Bangalore - Kamapsandra

The question of retrocession of jurisdiction on the three sections of railway lines noted in the margin was raised in 1918 but the Government of India did not wish to deal with the matter as an individual case, and proposed to defer a final decision, until the general policy was examined in consultation with the Indian Princes. Although the subject, in its several aspects has been examined by the Standing Committee of the Chamber of Princes on several occasions, in consultation with the concerned Departments of the Government of India, the matter does not appear to have advanced very materially. The views of this Government were communicated in Aug. 1926, and the opportunity was taken to urge the claim for retrocession of jurisdiction on the three railway lines ~~now~~ in question. The Indian States Inquiry Committee have also dealt with this subject and it does not appear that a fresh representation at this stage will receive any consideration, until the general policy is settled. However, a draft communication is put up for consideration.

The Railway Secretary has raised, in this connection, the question of asking for

NOTE.—Contn. Sheet

GBPM—500—25-10-28

Serial No.

jurisdiction on about three miles of British territory through which the proposed Chamarajnagar and Kollegal extension would run. He also refers to the contemplated Akkiheboal-Fraserpet extensions. It seems to me that these questions need not be raised just at present. The whole point of our contension is that separate jurisdiction on railway lines in Indian States is an anomaly. we cannot very well ask that an arrangement which we consider to be anomalous for Mysore should be introduced in British India for our benefit.

If any such request is to be made at all, this may be done in sending up the relative projects for the acceptance of the Government of India. we need not bring up these questions in the present connectio

DEWAN'S OFFICE
22. MAR. 1929
No. 4274

In the meantime we have received also a telegram from the Chancellors Office. A draft reply to the Secy of the Chancellor is therefore put up also for consideration

(Obtained from the III Member's office)
2-3

Third Member
19/3

Dewan
Chief Secretary (Seen)

NOTE.—Contn. Sheet

The file was given to me with enclosures to issue the letter to the Secy, Chamber of Princes. Draft II (to Resident) is kept by Dewan for scrutiny
25-3

GBPM—500—25-10-28

4108
25/3/29

For perusal of the
Hon'ble Member
25/3/29
Seen

Serial No.

To The Secretary to His Highness the Chancellor Chamber of Princes, 8, Underhill Road, Delhi
No. 4136/P.P. Dy No 13/2.
Forwards the views of Government with regard to the jurisdiction over Railway lands in Indian States.

2 To
Hon Secy to the Resident
Eco Dpt 451 of 27/3/29
Requesting that the circumstances explained the jurisdiction over Ry. Lands in the State may be retransferred.

5. Letter No 1175 of 7.2.1930
from the Secy to the Resident.
States that the question will be taken into consideration by the Govt of India, while dealing with the various recommendations of the Indian States Committee, in their report.
Submit for perusal

10/2/30 (Chief Secy) 10/2/30

Third Revenue Member 13/2

Dewan.

17/2/30

17/2/30

DEWAN'S OFFICE
19. FEB. 1930
No. 2562

CHIEF SECRETARY.
10 FEB. 1930

NOTE—Contn. sheet

WD 021—GPB—30,000—21-8-28

Sus B

App. F. XI—41

File No. 89-28

Serial No. 2

Sus. Regr. No.

Shall a reminder issue to

The Secy to the Govt

for a reply to this Office No. , dated the

No 981 & 27.3.31

Subject.

Repeal that the Jurisdiction over Rly lands in the State may be exchanged.

49 repd
D.O. No. 2949 & 7.2.30

These papers may be recorded

old

REMINDERS

No.	Date	

Cfd 4/8/31

Srlod

As observed in the letter of the Govt to the Chamber of Princes Chancellor the ~~Govt of India~~, this question ~~had of~~ ~~be considered in any~~ determination of jurisdiction shd not be settled on general principles only. We has lost jurisdiction over two lines, which once possessed & we may perhaps press the matter for a final decision in view of the inconveniences not

our letter owing to divided jurisdiction which are daily increasing, as civilization advances and ~~Criminals~~ with its advance new forms of crime come in vogue which do not facilitated by this division of jurisdiction.

Ray
23/3/31.

(Chief Secy)

May be recorded for the time being. But the case may be watched as a live case

Nev
24/3/31

Ray
24/3/31

Dewan

Mysore

Your letter No. 142 dated twentythird December last regarding cession of Jurisdiction over Railway lands grateful your communicating views of your Government without delay as matter coming for discussion by Standing Committee soon.

Secretary Chancellor.

-v- - - -

No. 31

POSTS TELEGRAPHS.

BANGALORE Office Stamp 16 MAR 29 G.T.D.

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay.	
Rs.	As.

Handed in at (Office of Origin.)	Date.	Hour.	Minute.	Service Instructions.	Words.
Jatiala	15	16	-	rected at	42

TO, Secrom Bangalore

Recd. here at 18 H. 15 M.

458 reference letter no 142 dated [illegible] december last regarding cession of [illegible] railway lands & ascertained your [illegible] views of your government thereon [illegible] as matter coming for discussion by standing committee soon [illegible] secretary chandler=

N. B.—The name of the Sender, if telegraphed, is written after the text.

[illegible] 868 (D 125) 22.12.27. 80,000 Bks.

Confidential
Immediate.

D.O.No.140

8, Underhill Road,
Delhi,
23rd December, 1926.

Dear Sir

As you are doubtless aware, the following resolution was passed by the Standing Committee Meeting of May 1926, on the subject of Cession of Jurisdiction over Railway Lands:-

I. That a note should be prepared for consideration by the next meeting, on the question of minimum jurisdiction with special reference to the following cases:-

(1) Arms Act.
(2) Excise.
(3) Sedition.
(4) Municipal Control of Settlements.
(5) Fiscal Acts.

II. That the list of unimportant non-strategic sections should be again examined (with a minimum limit of 50 miles instead of 75) with the object of selecting suitable cases, however few, for experimental retrocession.

III. That on certain small sections of lines terminating in States the possibility of making the experiment of retaining police jurisdiction but having cases

tried by Special Magistrates appointed by States should be further examined.

The Note referred to in Resolution I should be prepared by representatives of the Legislative, Railway and Foreign and Political Departments, with the assistance of K.B. Sardar Liaqat Hyat Khan of Patiala, Mr. Wakefield of Kashmir and, if possible Sir Prabhashanker Pattani of Bhavnagar, and copies of the Resolution should be circulated to the following Darbars:-

Bikaner;
Mysore,
Baroda
and Gwalior,

for suggestions and criticisms to be submitted before a certain fixed date".

It is proposed that the note regarding part I of the Resolution (Appendix A) prepared by the Government of India may be considered by the representatives of the States and the Government of India experts concerned during the forthcoming Standing Committee Meeting days. I am desired to invite any criticisms or suggestions which

your Government may like to offer on this note.

The examination of parts II & III of the Resolution quoted above is proposed to be taken up by the forthcoming Standing Committee Meetings beginning from the 7th of January, 1929. I am desired to enclose a copy of the Chancellor's Office Note (Appendix B) suggesting the line of action which may be taken up on these parts of the resolutions of the Standing Committee, for favour of expression of opinion by your Government.

The question of jurisdiction over Railway Lands is a very important and delicate one and His Highness the Chancellor trusts that your Government will give this question the consideration which it deserves and will forward their views on the two enclosures so as to reach His Highness

the Chancellor, at 8 Underhill Road, Delhi, not later than 2nd January, 1929.

Yours sincerely,

Acting Secretary
to H.H. the Chancellor
Chamber of Princes

The Dewan
of Mysore,
MYSORE.

Appendix 1

NOTE ON MINIMUM JURISDICTION ON RAILWAY LANDS.

In accordance with a Resolution passed at the Meeting of the Standing Committee dated the 25th May 1926 the Government of India have had under examination the question of defining the minimum of jurisdiction which is necessary for the proper administration of Railway lands, from the Railway and Police point of view on important lines, where jurisdiction rests with the Government of India, and the following note is intended to provide material for discussion by the special Committee appointed for the purpose.

2. The question has been carefully considered whether, having regard to the purposes for which a cession of jurisdiction was obtained, it would be possible to make some arrangement by which Darbars would exercise jurisdiction in matters unconnected with Railway administration. It is felt that whenever jurisdiction has been or may be ceded a unitary system is necessary in the interests of the safety of traffic and of good police and judicial arrangements. Concurrent jurisdiction of the nature proposed would involve undesirable complications, which could not but be detrimental to the smooth working of Railway administration.

3. In exercising the ceded jurisdiction, however, the Government of India have in the past imposed upon themselves certain well defined restrictions. The arrangements for exercising jurisdiction fall roughly into two classes:-

(a) those in which the laws of adjoining British Districts have been applied en-bloc, and

(b) those in which certain enactments only have been applied.

The procedure in class (a) is a matter of convenience only and although legally all enactments in force in adjoining British districts apply, in practice they have not all been

treated as in force. The lists of enactments applied in cases falling within class (b) vary to some extent, but generally contain about 30 Acts only, such as are necessary for the administration of criminal and civil jurisdiction, together with the Railway, Post Office and Telegraph Acts. It might of course, be possible to extend class (b) but the Government of India would prefer to await specific complaints arising out of the application of any Acts not generally enforced on Railway lands.

4. The Government of India have throughout the history of their Railway administration refrained from applying fiscal acts in railway lands for the purposes of raising revenue from Darbar subjects. Certain enactments containing fiscal provisions, such as the Arms Act, the Opium Act and sundry provincial Excise Acts have, it is true, been applied, but the purpose of applying them has been, not to raise revenue, but to arrange for the protection of British revenues and the control of the consumption of intoxicating liquors and drugs. The Court Fees Act and the Stamp Act stand on a somewhat different footing, since any revenue derived therefrom goes towards defraying the cost of the judicial establishments which it is necessary to maintain. Apart from this, it is understood, that in some Railway settlements a local cess is levied on the inhabitants to meet the cost of local sanitation and conservancy. At Bandikui, for instance, a cess varying from Rs.2 to annas 2 is levied towards the cost of local sanitation. But the principle that fiscal Acts are not ordinarily applied to Railway lands is well established.

5. Certain other concessions have in the past been made in order to meet the claims of Darbars, and these may be considered under the particular heads mentioned in the discussion in the Standing Committee. It is

perhaps fair to assume that these are the cases where the shoe really pinches. These heads are -

Extradition
Arms Act.
Excise
Sedition.
Municipal control of settlements and
Fiscal Acts.

6. Extradition.

In this connection His Highness the Maharaja of Patiala pointed out that a Sardar of Patiala can enter railway lands and laugh at the man sent to arrest him, and that if the offence with which he was charged was not extraditable the Darbar could not secure his arrest. A similar difficulty was urged by the Patiala and Jind Darbars in 1897, and the Government of India in addressing the Lieutenant Governor wrote, "The Government of India are willing that surrender should be facilitated as far as possible by His Honour authorising selected officers to make over accused persons wanted by the Darbars on the production of satisfactory evidence of criminality. There is also no objection to an arrest being made in an emergency by Darbar police, provided that the accused is atonce made over to the Railway police. As a rule, however, the assistance of the railway police should be invoked to seize an offender, and under no pretext should an accused person be removed from any railway limits except under the authority of an officer empowered for the purpose by the Punjab Government".

This system is still in force in regard to those States, and it was extended to the Indore Darbar in 1917 in view of a clause in the agreement of 1866 by which the Indore Darbar agreed to cede jurisdiction. This clause reads "The British Government agree to give up to Holkar all Darbar offenders who have taken refuge within railway limits

and are found within such limits." The extension of this system to sections of the railway other than those mentioned above might be considered.

It may also be mentioned the Indore agreement contained a further clause, which ran, "Still retaining the right to exercise its discretion in particular cases, Government as a general rule will not object to deliver to Holkar for punishment Darbar subjects who may have been convicted and sentenced by Government officers for offences committed within railway limits". The Government of India have recently agreed that, in pursuance of this clause, Darbar subjects convicted of offences on the railway may be handed over to the Darbar to undergo their sentence in a State jail,

7. ARMS ACT.

Their Highnesses the Maharajas of Patiala and Kashmir mentioned cases of State subjects, exempt from the State Arms Act, having been arrested and punished in Railway lands for being in possession of arms without a license. The necessity for applying the Arms Act to Railway lands has already been noticed. In order to meet this difficulty it might be possible to arrange that political officers should be authorised to grant to State subjects of special status a license without fee valid for a period of one year at a time for carrying arms within Railway lands situated within the territory of the State concerned. If, however, a person were travelling beyond the confines of the State, it would, in accordance with the usual practice, be necessary for him to obtain a journey license from the Political Officer.

8. EXCISE.

No specific difficulties have been alleged under this head. It has already been pointed out that Excise Acts are not applied for fiscal purposes, and it may be mentioned that in the cases of Hyderabad and Mysore the Government of India have allowed the Darbars the benefit of any license-fees accruing from the operation of the acts in Railway lands, the only stipulation being that this revenue should

be collected through the agency of the British Government. From the remarks of the Chief of Sangli at the last Meeting of the Standing Committee it appears that a somewhat similar arrangement is in force in his State.

9. Sedition.

His Highness the Maharaja of Patiala complains that seditious meetings have been held in railway lands and strictures passed against himself in his territory below the walls of his fort.

This is a matter in which the Government of India are no less interested than Darbars, and in order to meet the difficulties in question the General Rules for the working of open lines were recently amended by the insertion of the following clause:-

"The holding of political meetings is prohibited on any part of the railway premises, and a railway administration may exclude from the station platform or any other part of the railway premises any person attending such meeting whether such person is or is not in possession of a ticket authorising him to be on the said premises".

This should, it is considered, meet the difficulty, but Government will be glad to consider any other suggestions.

10. Municipal Control of Settlements.

As has already been stated, the Government of India do not use their jurisdiction for fiscal purposes, although in settlements such as Bandikui a local cess is in force for purely local purposes.

In some places certain restrictions regarding the opening of shops, sale of meat, etc., are understood to be in force with a view to protecting the interest of adjoining markets in State territory and avoiding offence to the religious susceptibilities of States.

11. FISCAL.

The policy of the Government of India in regard to

fiscal matters has been indicated above.

12. A list of points which the Committee might like to consider is appended. It is based on certain suggestions made some years ago by an important Darbar and is reproduced here merely as containing suggestions which may appeal to other States. The Government of India have expressed no opinion on the points raised.

(Azad)

List of points in connection with the cession of land for Railway purposes, which the Committee may wish to consider.

****

1. Sovereign rights over all lands granted to the railway will be retained by the Darbar.
2. In Police investigations, to avoid delay, the Railway police officials concerned will send persons required for interrogation direct to Raj thanas without the intervention of the Darbar Vakil, and the Raj Thanas will at once report the matter to the Darbar Vakil. Any person so sent is on no account to be arrested by Darbar police except in accordance with the regular Extradition procedure.
   Proviso.- A railway servant shall not be so sent until suitable arrangements have been made for carrying on his work. The Railway authorities should arrange for his relief without delay.
3. If in any case, based on an occurrence within Raj limits, the accused or defendant claims to be dealt with as a European British subject, he must prove his claim, in accordance with the provisions of the Criminal Procedure Code, to the satisfaction of the Political Officer, and if he fails to do so the case shall be tried and decided by the Raj Court.
4. Station masters shall allow Raj customs Officials to take notes from their registers in regard to entries therein of goods imported and exported, so that the amount of customs duties realised at the State customs stations may be checked.
5. If the State customs officials inform the station staff or the Railway police that at any railway station a passenger is by the removal of dutiable articles evading the payment of Raj Customs, the station staff and the Railway police shall give reasonable assistance to the State customs officials.
6. In order that payment of Raj customs duties may not be

evaded, station masters and the station staff shall take measures to prevent persons with luggage or goods from leaving the station platform except by the prescribed exit.

7. The State Police and Customs Officials may be present on station platforms at the time of arrival of trains, and the railway officials will treat them with courtesy and render them reasonable assistance in the performance of their duties.

8. The principal State officials may ordinarily be present on station platforms at the time of arrival of trains and the railway officials will be respectful and polite to them.

9. No butcher's shop will be opened within railway limits for the sale of beef or bacon.

10. No shop-keeper or railway servant shall import country liquor into railway limits. Offenders will be tried by the Railway Magistrate under section 188, Indian Penal Code

11. The castration of animals such as horses and bulls, the slaughter of kine and the killing of pigeons and peacocks within railway limits in States in which these acts are punishable under State Laws will be considered as penal offences and will be tried by the Railway Magistrate under section 188, Indian Penal Code.

12. Railway employees or persons residing in railway lands who perform religious ceremonies or take part in religious processions within State limits shall conform to State regulations. Failure to do so will render them liable to trial by State Courts.

13. Temples, Mosques, Pacca tombs and Cenotaphs existing in the lands granted to the Railway and their compounds, if any, will be preserved and will not be demolished, except with the consent of the Darbar.

14. Kacha and Pakka buildings belonging to the State or its subjects situated in the vicinity of lands granted to the railway will not be demolished.

15. The Railway authorities shall not utilize any Raj land for their own use, or for railway construction works, or other purposes, without first obtaining the Darbar's sanction. This stipulation refers only to Raj lands not ceded to the railway.

16. The Railway authorities and Railway police shall not object to the passage along the station and public approach road of such marriage and other religious processions with or without music as have to proceed from railway stations to Raj territories.

17. The Railway authorities shall not object to the owner of a Pakka irrigation well situated in the land granted to the railway using it for irrigation purposes. Should they do so they will be liable to pay compensation.

18. Night soil and filth and rubbish from railway yards shall not be deposited within Raj limits except in such plots of ground as are selected for this purpose by the Darbar Vakil in consultation with the Railway Engineer and sanctioned by the Darbar. Suitable sites will be given by the Darbar when applied for.

19. Railway servants or other people residing within railway limits shall not, except with the permission of the Darbar, hunt, shoot or kill within Raj territory any birds, animals or fish, the killing of which is prohibited. Offenders shall be liable to punishment under the State Law.

20. No railway servant in a state of intoxication in the Raj limits shall conduct himself there in such a manner as to cause annoyance to any person. Breaches of the State Laws so committed will be dealt with by the State: breaches of

discipline by the Railway authorities.

21. The Railway police is responsible for the protection of Railway limits, and no compensation in cases of theft, robbery or dacoity occurring within railway jurisdiction shall be awarded against the State or its villages.

22. The Railway authorities shall publish necessary orders in connection with articles Nos. 10 & 11 above for the information of Railway servants and others residing within railway limits.

23. Full compensation will in future be paid by the railway for all lands and property taken up within railway limits.

24. Lands originally taken up in excess of requirements shall be promptly handed back to the State in accordance with regulations of the Government of India, in the event of their not being found absolutely necessary to meet immediate railway requirements.

25. Land required for construction purposes only should be handed back to the Darbar when no longer required.

26. In case of a washaway or other sudden emergency, the Railway authorities shall be allowed to enter on land outside railway limits required for ballast or earthwork, on a simple written requisition being made to a competent official of the Darbar concerned. In such cases the Railway authorities will do as little damage as possible and will pay reasonable compensation for such damage.

(Azad)

Appendix B.

****

N O T E

on the

JURISDICTION OVER RAILWAY LANDS

in

I N D I A N S T A T E S

****

By Chancellor's Office, Patiala.

(Azad)

NOTE ON THE JURISDICTION OVER RAILWAY LANDS IN INDIAN STATES.

----)oOo(----

1. This is a very important question and its present unsatisfactory stage has created much unpleasantness and many difficulties. The Indian States concerned offered lands for Railway construction, they did not part with their dominion over them (Vide Yusaf-ud-Din's case decided by the Privy Council). And yet the question of jurisdiction over these lands has been so much misunderstood and misapplied that the States are being denied practically all rights of sovereignty over them. They are not allowed, with rare exceptions, the excercise of Civil, Criminal of Police jurisdiction over railway lands in their territories. Their Fiscal and Muncipal jurisdiction is excluded. Even Extradition Laws have been applied to these areas. So much so, that, as remarked by His Highness of Patiala, "a Sirdar..... may commit the biggest crime and he simply walks across into the railway lands and laughs at us". This, obviously, is neither intended nor desirable. It engenders bitterness. Its continuance means practically a cession of bits of territory, by a State, whenever it facilitates construction of new railways within its boundaries. This retards railway expansion and consequent economic development of the States.

2. The discussion over this subject, however, between the Princes and the Government of India or their respective representatives, have cleared a great deal of misunderstanding. In fact they have revealed a complete agreement of the parties on the following main considerations involved:-

(a) "That the whole aim and object underlying the policy of cession of jurisdiction over Railway Lands to the British Government is not based on any political consideration but is concerned with the detection and check of crime and to facilitate the smooth working of the railways".

(b) " That the object underlying this policy should be achieved through retention by the British Government of minimum jurisdiction required for this purpose, and that the remaining jurisdiction should be retroceded to the States concerned."

(c) " That the retrocession of Criminal and Civil Jurisdiction of any State shall be conditional on its possessing proper machinery for administration of justice".

(d) " That adequate control over the working and maintenance of the line should be retained either through the application by the Darbar concerned of an enactment and rules similar to the Indian Railways Act and the Rules made thereunder or otherwise".

(e) " That the States will grant permission for such inspection of the line by Government Railway Officials as may be necessary.

(f) " That the Imperial Government can rely on the co-operation of the Indian States as may be necessary in case of grave public emergency or in the strategic and military interests of the Empire."

These are the fundamental points underlying this problem, and the possibility of agreement on these promises its constructive and acceptable solution.

3. The history of discussions over this question by the Princes' Committee has been summarized in Appendix A to this Note. It records four difinite instructions which are to guide all future attempts at solving this problem They are:-

(1) That the Princes disapprove the policy of Cession of Jurisdiction to the British Government.

(2) That there should be complete and permanent retrocession where the State or a company or individual or association of individuals authorized by the State is either the owner of the Railway or at least has a substantial interest in it and works it.

(3) That the list of non strategic sections should be examined with the object of selecting suitable lines (each with a minimum unbroken length of 50 miles in a State) for complete experimental retrocession.

(4) That on certain small sections of Lines terminating in States the possibility of making the experiment of retaining Police Jurisdiction and having cases tried by Railway Magistrates appointed by States should be further examined

These terms, however, are subject to and supplemented by the main principles referred to in para (2) of this Note.

4. The adjustment of Criminal and Police Jurisdiction, subject to the above instructions, is the most important feature of this problem and deserves primary consideration. Two objections have, so far, been cited by the Government of India, in the course of the discussions, against retrocession. They are (i) difficulties of divided jurisdiction and (ii) weaknesses inherent in divided control, due to constant breaks of territory. The elimination of these objections is no doubt desirable, but they cannot, and should not, be allowed to justify inroads, on the internal sovereignty of the Darbars, beyond the minimum limit indispensable for securing smooth working of the Railways and the control of crime. Moreover, constant breaks of territor even without cession of Jurisdiction - are not necessarily incompatible with efficient railway administration and control of crime. The continental railways traverse many independent States which retain complete jurisdiction in their territories. They cross many frontiers, and considering their speed they do so at certain places almost as frequently as some of our worst interstatal railways. And yet the continental system does not appear to suffer, at those spots, from any serious inefficiency in railway administration

or control of crime. The most equitable method, therefore, which also accords with the spirit of the agreement so far reached, of dealing with this problem would be, to retrocede to the States concerned the whole of the Criminal and Police Jurisdiction over Railway Lands except that portion of it whose retrocession is shown to be incompatible with securing the objective in view. The onus of establishing a case for exception rests obviously on the Government of India.

5. The Criminal Jurisdiction over Railway Lands has four different aspects:-

(a) Jurisdiction over State Offenders who have escaped to the railway lands (including the stations).

(b) Jurisdiction over offences by railway official or others on the railway lands.

(c) Jurisdiction over offences by passengers or railway officials or others on the stations.

(d) Offences by passengers or railway officials on the trains.

The first three of these jurisdictions, it seems, could be safely retroceded to the State concerned provided it had an efficient judiciary and police force and an enactment on the lines of the Railways Act. Their retrocession would help, and not impede, Railway Administration and control of crime, it will expedite justice. On the other hand, their retention by the British Government, though not indispensable to the objective in view, would continue the present difficulties of the States. Moreover, the extradition of State offenders from railway lands involves a constitutional issue. It is admitted that the cession of jurisdiction over these lands does not mean cession of sovereignty. They cannot, therefore, be regarded as "foreign territory" qua the State concerned. The application of extradition laws to these lands is, under the circumstances, a negation of Political Law, a

defiance of express guarantees given to most States, immaterial to railway administration, and positively harmful to the control of crime in the States.

6. The offences on the stations or the Railway Lands may be (1) Independent offences or (2) those relating to railway administration. As regards (1) the obvious authority best situated to control and punish them is the State concerned. As regards (2) offences relating to railway administration - it seems that the law being practically the same, it is immaterial, from the railway point of view, who administers it so long as he is capable and works under an efficient system. It is understood, however, that the Darbars will make arrangements for the regular policing of the stations and special surveillance of the lines whenever required.

7. The question of jurisdiction over offences on the trains is comparatively complicated. To this alone, the difficulties of "breaks of jurisdiction" seem relevant. And expediency suggest that, for its solution, it would be convenient and desirable for Darbars concerned to avail of the experience and practice of th civilized nations with respect to private vessels in foreign ports. This practice has been summarized in Wildenhus Case as follows:-

> "All matters of discipline and all things done on board which affect only the vessel or those belonging to her, and which do not involve the peace or dignity of the country or the tranquilli of the port, should be left to be dealt with by the authorities of the nation to which the vessel belonged".

Difficulties, however, have been felt by the nations in deciding to which of these categories an offence belonged, which must be eliminated in the present political stage of the States. To ensure that, Criminal and Police Jurisdiction on the trains may be ceded to the British Government. It is, however, understood in this

arrangement (a) that trains mean running trains whether actually in motion or halting (b) that passengers include trespassers (c) that the British Government will arrange for the policing of the trains (d) that a scheme will be evolved to secure copperation between the British Police on the trains and the State Police on the stations.

8. Three objections may be cited against the solution offered in the preceding para of this Note:-

(a) That the Indian Legislature cannot extend the Penal Code, the Code of Criminal Procedure or any other Criminal Law to the trains in the States' territory.

(b) That difficulties would arise if an offender jumped from the train to the adjoining railway lands or station, and vice-versa.

(c) That it does not provide any formula of settling those extreme cases where the question of jurisdiction may be in conflict or doubt.

These objections are no doubt sound but they are not insoluble.

9. The first of these was cited by Mr.Graham of the Legislative Department Government of India and deserves careful consideration. From the legal point of view, it is obvious that the contention of Mr. Graham is unanswerable (vide Section 65 of the Government of India Act). But the Indian Legislature is not the only authority competent to give extra-territorial extension to the Indian Laws. This power, even wider than that possessed by the Indian Legislature, also vests, under the Foreign Jurisdiction Act 1890, in the Crown and may be exercised by the Governor-General of India in-Council, on His Majesty's behalf, under the Indian (Foreign Jurisdiction) Order in Council, 1902. In fact jurisdiction over railway lands in the States' territory has invariably been exercised by the Governor General in-Council under this Order in Council. And it should be possible to draft a notification, under

the same, extending the scope of necessary Criminal Laws to trains in the territories of particular States.

10. The second objection is equally forceful, but it could be met by a suitable convention between the Government of India and the Darbars concerned obviating the necessity of extradition formalities in such cases. This could be done by providing that the British Train Police may arrest any person, within the boundaries of railway lands or stations, who had got out after committing an offence on the trains, or the State Railway Police may be instructed to hand over forthwith, at the request of the British Train Police any person accused of having committed an offence on the train and present on the railway lands or stations. A reciprocal arrangement could also be assured to the States with respect to persons who commit offences on the State territory and escape to the trains. It is understood, however, that all persons so delivered shall be presented before a Magistrate within a week of their arrest for being proceeded with according to law. The third difficulty, about cases of doubtful or conflicting jurisdiction, could be avoided by providing that such offences shall be deemed to have been committed on the trains and thus subject to British jurisdiction.

11. The proposed solution of jurisdiction over offences on the trains, with the safeguards suggested above, should secure the objective in view without giving cause for reasonable complaint to either side. Moreover, it is not open to the objections cited by the Legislative Department, and it attempts to eliminate the difficulties suggested from time to time, in the way of retrocession, by the Political Department Government of India in their correspondence on the subject with the Darbars concerned.

12. The various points raised in the resolution passed by the Standing Committee meeting of May 1926, may now be considered in the light of the preceding remarks. Part II of that resolution enjoins examination of the list of certain sections of railways, with a minimum unbroken length in a State of 50 miles, for selecting suitable cases for experimental complete retrocession. The following lines appear to conform to the prescribed requirements and offer the desired field for selection:-

Section of railway.	States traversed for minimum unbroken 50 miles.	Approximate mileage.
(a) Important Non-strategical railways.		
Bombay, Baroda, Ratlam Delhi (Bombay Baroda and Central India Railway)	Baroda.	3÷8÷7÷2÷54.
Dhond-Wadi Secunderabad Singereni Collieries. (Great Indian Peninsula and Nizam's Guaranteed State Railways).	Hyderabad.	290.
Wadi-Madras (G.I.P and Madras and Southern Marhatta Railways).	Hyderabad.	76.
Katni-Bilaspur Branch.	Rewa.	105.
Sabarmati-Delhi.	Baroda. Jodhpur. Jaipur. Alwar.	60. 116. 116. 60.
Hotgi-Raichur.	Hyderabad.	64.
Bhusawal-Warda.	Hyderabad (Berar)	150.
Jalerpat-Bangalore City.	Mysore.	87. ✓
Harihar-Bangalore.	Mysore.	110. ✓
(b) Unimportant non-strategic sections.		
Rewari-Phulera Chord.	Jaipur.	15÷67.
Nasirabad-Northern end of the Narbada bridge.	Mewar.	87.
Bhopal Ujjain Railway.	Gwalior.	53÷14.
Bina Guna-Baran Railway.	do	80.
Hyadrabad .Manmad.	Hyderabad.	356.
Secunderabad-Gadwel Section.	Hyderabad.	117.
Shoranur-Cochin Railway.	Cochin.	64.
Tinnevelly Quilon Railway.	Travancore.	50.

All of these sections of railways, obviously, satisfy the conditions laid for experimental retrocession. But the Railway Board in their Note on retrocession "considered necessary to exclude" from experiment of complete retrocession all important non-strategical railways. The representatives of the Government of India may even now insist on this exclusion. That would limit the choice for complete experimental retrocession to the sections enumerated under heading (b) of the above table. In this case, we should press that a simultaneous experiment of partial retrocession on the lines suggested in para 7 of this Note, may be tried on some of the sections enumerated in part (a) of the above table i.e. on the important non-strategical railways. These lines present typical difficulties and thus offer an ideal case for experiment, which, if cautiously tried, should expedite solution of this intricate problem. The selection of particular lines, suitable for the experiments of complete and partial retrocession, could be done by the Railway Board in consultation with the two experts - such as Sir Manubhai Mehta and Colonel Haksar - to be named by the Standing Committee.

13. Part III of the Standing Committee resolution referred to above invites an examination of experimental cession of police jurisdiction to the British Government but having cases tried by Special Magistrates appointed by States on certain small sections of lines terminating in States. It seems obvious that the police jurisdiction contemplated in this resolution would extend to railway lands, trains, and stations. That appears to be ceding more than the minimum required, in such cases, for efficient railway administration and control of crime. Moreover the cession of complete police jurisdiction would leave unsolved, the present

difficulties with respect to, the extradition of State offenders from railway lands. The offenders who escape to, or commit offences on, the railway lands would primafacie, under the arrangement suggested in part II of the resolution, be amenable to the criminal jurisdiction of the States' Magistrates but they could not be apprehended, in most cases, so long as the British Police did not appear on the scene. This would be a solution that solved nothing. It is, therefore, submitted that on the sections contemplated in this part of the resolution also, the experiment to be tried should include complete restrocession of Police and Criminal Jurisdiction over State Offenders escaping to the railway lands, and over offences on the railway lands or on the stations.

14. This leaves the consideration of offences on the trains running on these sections. The difficulties of breaks of jurisdiction, relevant to this question elsewhere, are obviously irrelevant here, for the simple reason that the line terminates before any further breaks occur. The venue of offences, if any, committed on these sections, is unmistakable. The exercise of Criminal Jurisdiction, therefore, over such offences could safely be retroceded here, provided the Darbar concerned had an efficient judiciary and an enactment on the lines of the Railways Act. One important reservation, however, suggests itself in this connection. The offences on the running trains on these sections may relate to Railway Administration or they may be independent offences. In the former case the persons involved could reasonably be subjected to the Criminal Jurisdiction of the Darbar concerned because the law to be applied here is more uniform in British India and the States. The independent offence on the

trains, however, offer some difficulty, It is possible that the laws of the State might declare certain acts as criminal which have not been penalised in British India. And a person on the train may suddenly find himself within the grips of law while performing an act which was regarded innocent in British India and which he did not know to be criminal in the territories concerned. The ignorence of Law excuseth none. Some safe guard is, therefore, desirable to protect such cases. This could be secured by providing that no one shall be punished or detained for any act done or omission made, on a train, over these railway sections, unless that act or omission is also culpable under the British Indian Law or unless the offender is proved to have known that he was violating any law of the State concerned. With these safeguards the experiment, may be tried, of complete retrocession on the lands contemplated except the police jurisdiction over offences on the trains. This principle has been applied to the Excise Administration of Sangli. The Government Police detects the excise offences and brings the cases before the State Magistrates. The system works satisfactorily there It may work equally satisfactorily here.

15. Part 1 of the resolution passed by the Standing Committee Meeting in May, 1926, recommends the preparation of a note on the question of minimum jurisdiction with special reference to :-

(a) Arms Act.
(b) Excise.
(c) Sedition.
(d) Municipal control of settlements.
(e) Fiscal Acts.

This note is being prepared by the representatives of the Government of India, and will be considered by Sirdar Liaqat Hyat Khan of Patiala and Mr. Wakefield

of Kashmir before it comes before the Standing Committee Till then any comment on this aspect of the question seems premature and may be postponed. The inclusion, however, of Fiscal Acts and Municipal Control of Settlements, in this list, seems rather unfortunate. These matters are entirely within the internal sovereignty of a State and primafacie have nothing to do with railway administration or control of crime. It, therefore, seems undesirable and unnecessary to cede any jurisdiction, minimum or otherwise, to the British Government with respect to these matters.

16. This exhausts the consideration of the various points raised in the Standing Committee Resolution of May 1926. There are some important matters, however, which though not directly covered by the context of the resolution, arise out of it and invite discussion. They relate to four different types of railways:-

(a) Strategical.
(b) State owned and worked.
(c) Those over which Darbars have once exercised complete jurisdiction successfuly.
(d) Which run in unbroken lengths of less than 50 miles within particular States.

17. As regards (a)-strategical railways - the Princes appear to have agreed to their exclusion from the experiment of complete retrocession. There seems, however, no strong reason why the experiment of partial retrocession as suggested in para 7 of this note may not be tried later on some of these sections. In any case immediate retrocession of jurisdiction over State offenders escaping to the railway lands or stations over these sections should be claimed forth-

with. Before this is pressed by the Standing Committee, a preliminary enquiry may, perhaps, be advisable from the Government of India on the following two points:-

(1) Assuming that the Darbars concerned are prepared to co-operate as much as necessary with the British Government in cases of emergency or in the strategic and military interests of the Empire, what special difficulties, over and above those cited in the case of important non-strategical railways, lie in the way of experimental retrocession - complete or partial -- on the lines of strategic importance?

(ii) What objections, from the point of view of railway administration or control of crime or otherwise, have the Government of India against retrocession of jurisdiction over State offenders who escape to railway lands (including the stations) of strategic sections?

18. As regards (b), the Standing Committee has recommended in its meeting of November, 1922.

'That there should be complete and permanent retrocession where the State or a Company or individual or the association of individuals authorized by the State is either the owner of the railway or at least has substantial interest in it and works it.

Primafacie, it seems desirable that the under-

lined 'and' in this recommendation should be changed into 'or'. Otherwise, a State would not be able to claim full jurisdiction over railways, even entirely within its boundaries, in cases where the State concerned constructed a railway with its own funds but delegated or mortgaged the working of it to some Company, or where a Company authorized by the State works a railway which was constructed mainly with foreign share-capital. There seems no justification for this differentiation; particularly because the question 'who owns or works a railway' has been found in practice to be irrelevant to the due exercise of jurisdiction.

19. As regards (c), it may be pointed out that there are many sections of railways, such as Rajpura - Bhatinda Railway in Patiala and the Bangalore-Harihar and Bangalore-Hindupur Railways in Mysore, over which full and exclusive jurisdiction was once enjoyed by the Indian States concerned. It worked successfully for years without any occasion for complaint or protest. And yet the States were made to part with that jurisdiction, under circumstances, which need not be recapitulated here. These cases constitute a class by themselves, and they have already established a case for retrocession which in other cases may depend on the success of proposed experiments. It is, therefore, contended that with regard to such sections of railways there is not the slightest justification for postponing full retrocession, till the experiment elsewhere proves successful. Complete and permanent retrocession on such sections may accordingly be pressed forthwith.

20. As regard (d) - unbroken lengths, in a State, of less than 50 miles - it seems obvious

that the difference between them and the lengths over 50 miles is the possibility of treating the latter as a single police circle, which can not be secured on the former. But if the experiment of partial retrocession, suggested in para 7 of this note, works successfully on minimum unbroken lengths of 50 miles, it would follow as a corollary that the same experiment should work successfully on the smaller sections, provided the policing of stations there were entrusted to a joint interstatal police under the control of a British Officer. This is one of the recommendations made by the Minister's Committee, and may be tried after the experiment of partial retrocession succeeds on the longer unbroken sections.

21. To recapitulate, the suggestions made above may be summarized as follows:-

(1) That the Railway Board be asked to select, in consultation with two experts to be named by the Standing Committee, suitable lines for complete experimental retrocession out of the list (attached) of unimportant non-strategic sections with a minimum unbroken length of 50 miles.

(2) That the Railway Board be asked to select, in consultation with two experts to be named by the Standing Committee, suitable lines from the list (attached) of important non-strategic sections (with a minimum unbroken length of 50 miles) for the experiment of partial retrocession as suggested in para 7 of this note with the proposed safeguards.

(3) That on certain small sections of lines terminating in States the experiment of complete retrocession except police jurisdiction on running trains be tried with the safeguard suggested in para 14.

(4) That with respect to the strategic sections, information may be invited from the Government of India on the two points stated in para 17.

(5) That in the Standing Committee recommendation with respect to the railways owned and worked by the States, the underlined 'and' be changed into 'or'.

(6) That complete and permanent retrocession be pressed with respect to the non-strategical railways over which State Administration has already exercised full jurisdiction successfully.

(7) That on success of the proposed experiment of partial retrocession on minimum lengths of unbroken 50 miles, the same arrangement with a scheme of interstatal policing of the stations, be tried on sections of short or unbroken lengths.

22. The question of settling retrocession of Civil Jurisdiction has not been taken up seriously so far. This seems so, mainly, because all exercise of civil jurisdiction must rest ultimately on the power of the State to enforce the decrees of its Civil Courts, which cannot be done effectively without adequate criminal jurisdiction. The unsettled condition of the latter rendered the solution of the former more or less impossible. But now that the experimental adjustment of criminal jurisdiction is within sight something could reasonably be done with respect to civil jurisdiction. It is, therefore, suggested that the Government of India be asked to prepare a note defining minimum civil jurisdiction indispensable for the efficient administration of railways and control of crime,

APPENDIX A. (History).

The question of jurisdiction over railway lands has been under consideration of the Princes' Committee for over five years. It was included first in the note, relating to railway construction in in Indian States, prepared by the Government of India and placed before the Standing Committee in April 1921. The Committee separated the question of jurisdiction from the bigger question of construction and postponed it till the next meeting which met in November 1922. The latter made five important recommendations:-

(1) "That the Committee is not in favour of the policy of jurisdiction being ceded to the British Government".

(2) "That previous agreements made as regards
(2) "That such jurisdiction should not be ceded in the case of the States owning and working their own railways".

(3) "That previous agreements made as regards the cessions referred to in (2) should by mutual consent and signature be annulled or revised or modified accordingly".

(4) "That in other cases a solution should be found which should meet the stand-point both of the Government of Indian and of the States".

(5) That a Sub-Committee of Ministers be forthwith appointed to evolve, if possible, the desired solution in consultation with Representatives of the Legislative, Railway and Political Departments of the Government of India.

These constitute the basis for discussion of this subject by all succeeding Committees. They limit the terms of reference of the proposed Committee to railways not owned and worked by the States.

This Committee of Ministers submitted an admirable report on the 7th January, 1923, in which they made a double-barrelled recommendation suggesting two alternative schemes. But unfortunately, one of these alternatives did not appeal to their colleagues from the Government of India, and the other could not be adopted by the Standing Committee, which, therefore, proceeded to deal itself with the matter in its meeting

of the 6th September, 1923, Three important decisions were arrived at by that Meeting:-

(1) That so far as the main and thorough lines are concerned the exercise of Civil and Ciiminal jurisdiction in the areas ceded for Railway purposes should, as a rule, be limited to the purposes for which the cession was made.

(2) That for the application of this principle it was necessary to settle the minimum jurisdiction, if any, required for railway purposes, and to arrange for the retrocession to the States of all jurisdiction over that minimum.

(3) That the officers of the Government of India should work out the minimum jurisdiction required, which may then be considered by a Special Committee, of Ministers and Government of India Officials.

The preliminary Meeting of the Government of India Officials was held on 20th December, 1923, and reported that the best method to deal with the question was to take up separately the case of each State concerned. It also adopted a note (prepared by Mr. Coupland Inspector General Railway Police, Rajputana) suggesting possible difficulties in the way of complete retrocession. The question was further examined by the Special Committee of Ministers and the Government of India Officials on the 19th of May, 1924, which recommended that :-

"Full jurisdiction should as an experiment, be retroceded on selected lengths of lines suitable for one or more police stations, subject to the Darbar concerned applying an Act on the lines of the Indian Railways Act to the length in question. This suggestion is subject to reconsideration after the opinions of the authorities who will be consulted, have been received."

This was accepted by the Standing Committee Meeting of the 20th August, 1924, and referred to the Railway Board, by the Standing Committee on the 20th February, 1925, 'so that the points discussed should be embodied in a note!

This note was accordingly prepared, but unfortunately in doing so the Railway Board limited the

cfield of experiment of complete retrocession to almost a fruitless task. They observed that :

"For the purpose of this examination, it was considered necessary to exclude from consideration, sections of railway which formed a part of important thorough routes and lines of strategical importance. The detailed examination showed that there are in fact very few sections available for the experiment. And an unbroken section of line 80 miles in length in one State was taken to be the minimum length suitable for a police station..... There are apparently only two sections, one of 87 miles in Mewar territory, and one of 80 miles in Gwalior territory, suitable for the experiment, and in the circumstances it would seem unlikely that the experiment, if carried out, would have the value that have been anticipated,"

Three statements are attached to this note :-

Statement 1.

(Part 1) Showing Railways of strategical importance.

(Part 2) Showing important non-strategical railways.

Statement 2.

Showing unimportant non-strategical Railways.

Statement 3. Showing lines owned and worked by the Darbars.

The note above referred was discussed at the Standing Committee Meetingsof May, 1926 in the course of which His Highness the Chancellor remarked :

"In the case of stategical Railways we have nothing to say..... Our unanimous opinion is that instead of 75 miles the minimum length (for experimental complete retrocession) should be 50 miles."

The following resolution was ultimately adopted :-

"That note should be prepared for consideration by the next meeting on the question of minimum jurisdiction with special reference to the following cases:-

(1) Arms Act.
(2) Excise.
(3) Sedition.
(4) Municipal control of settlements.
(5) Fiscal Acts.

II. That the list of unimportant non-strategic sections should be again examined (with a minimum limit of 50 miles instead of 75) with the object of selecting suitable cases however few for experimental retrocession.

111. That on certain small sections of lines terminating in States the possibility of making the experiment of retaining police jurisdiction but having cases tried by special magistrates appointed by States should be further examined.

The Note referred to in Resolution I should be prepared by representatives of the Legislative, Railway and Foreign and Political Departments, with the assistance of K.B. Sardar Liaqat Hayat Khan of Patiala and Mr. Wakefield of Kashmir, and copies of the Resolution should be circulated to the following Darbars:-

Bikaner
Mysore
Baroda
&
Gwalior

for suggestions and criticisms to be submitted before a certain fixed date."

This Resolution was taken up by the Ministers' Meeting at Bikaner last August and led to a subtle difference of opinion. Some of the Ministers present regarded it to be retrograde move from the agreement of experimental complete retrocession in so far as the present resolution excluded (1) important through railway lines and (2) lines likely to be used for strategical purposes. Professor Rushbrook Williams of Patiala and Mr. Wattal of Kashmir, who were present at the last meeting of the Standing Committee, however, explained that there had been no retrogression and that there was no idea of omitting through main arteries if they traversed the territories of the Large States for the stretch of 50 miles in one bit. These views of the effect of the resolution apparently exclude each other, and yet they are both correct. The Resolution as it stands does seem a step backward. The discussions in the last Standing Committee, however, show that impor-

tant non-strategic sections were intended to be included in the experimental retrocession. And the only way to reconcile these decisions is to omit the word "unimportant" from part 2 of this resolution which seems to have been inserted by mistake.

This is how the matter stands for the further consideration of the Standing Committee of March next to which Sir Manubhai Mehta and Colonel Haksar will also be invited, at the suggestion of the Bikaner Committee, in order to retain the continuity of discussion.

Criticisms and suggestions on the Resolution were invited from the Darbars mentioned therein, and a digest of the opinions received, prepared by learned Legal Adviser to the Patiala Government is attached as Appendix B.

APPENDIX B. (Digest of Opinions)

The Government of Mysore desire retrocession of full jurisdiction over Railways in their territories. As regards other Indian States, it is their opinion that the matter is somewhat more difficult, but in any case fiscal and municipal jurisdiction should be ceded to the State concerned, and an understanding arrived at and adopted in respect of the Arms Act. The question of sedition like other offences should be dealt with by a Central Authority. The Gwalior Durbar without committing themselves to any definite opinion state that they do not see any reason for receding from the position taken up by their representative and developed in the report of the Ministers. They also point out that the Statement 1 (Part 1) detailing "Railways of strategical importance" require further examination. The classification followed in the Note issued by the Railway Board is also criticised. This point is noticed by the Committee of Ministers as well. It is clear from the Note of the Railway Board that the experiment of retrocession is to be tried in respect of un-important non-strategical railways whereas the original intention was to exclude strategical railways only.

Strictly Confidential.

DOCUMENT No. 1.

PRELIMINARY MEMORANDUM.

(*A*) An analysis of the grievances of which the Princes have for sometime complained, shows that in the main these grievances are caused by certain distinct features of the present system under which the relations of the Princes and their States with the Paramount Power and the Government of India are conducted

This system works badly, it is believed, because

1. The States have no voice in the framing of policy or in the taking of decisions by the Government of India in matters which vitally affect them.

2. The grounds upon which the policies and decisions of Government are based, are not disclosed and the Princes thus have no opportunity of ascertaining, considering or verifying them. This drawback of secrecy applies also to cases where the States raise objections to decisions and ask for reconsideration of them.

3. In such disputes the Government of India or the Governor-General or the Secretary of State, as the case may be, is at once party and judge, and the Prince is allowed no opportunity of knowing the grounds, or, at any rate, the whole of the grounds, of the decision against him nor is he allowed to present any agreement upon them. Even where the dispute turns upon a pure question of policy and no justiciable issue is raised, it seems unfair to the individual State that it should not be deprived of such elementary rights, and to the States as a whole that they should be deprived of opportunities of considering and expressing their corporate view upon the question of policy, which may be of deep interest to them all.

   Where the dispute turns wholly upon a justiciable issue as to the constitutional rights of a State or other question of law or as to controverted facts, or where a dispute of policy turns partly upon such a justiciable issue, it is wholly wrong that the justiciable issue should not be tried and decided by a suitable judicial tribunal and that the elementary rules of judicial procedure required by natural justice should not be observed throughout.

4. The effect produced upon the minds of the Princes collectively and of most of them individually may be summarized:—

   (*a*) They feel that they have to stand by and watch continuous and progressive encroachment, quite unjustified in constitutional theory, upon their Sovereign rights which they are powerless to arrest.

   (*b*) They feel that policies are framed and decisions imposed by a Power wholly external to themselves.

(c) The characteristics mentioned in (2) and (3) above (secrecy and absence of justice) destroy their confidence in the fairness of the system upon which the Political Department works, and produce grave distrust.

5. The results are that mutual confidence is impaired and the system of mutual relations works badly, with consequent detriment directly to the interests of the States and indirectly to the interests of British India and of India as a whole and of the Empire.

(*B*) The appointment of the Indian States Committee offers the first opportunity the Princes have ever enjoyed, of representing their objections to the *system as a whole*, and of representing them before an independent and impartial authority.

(*C*) But in order to prove conclusively that the present system is open to these objections, it is necessary to collect *evidence*, in the shape of concrete instances, well-documented and proved beyond doubt, of the objectionable treatment which a *large number* of States have experienced in a *variety of directions.* General statements are useless for the purpose of proving such a case. All instances must be particular and definite, and there must be a sufficient number from each State to prove by the cumulative effect of the mass of evidence, beyond any possibility of doubt, the absolute truth of what the Princes assert.

(*D*) His Excellency the Viceroy has given public expression to his wish that the States should urge their case *freely* and *frankly*. No Prince need therefore apprehend that in presenting his grievances as he sees them, he will incur the odium of the British Government, or suffer in any way directly or indirectly.

(*E*) The Princes are earnestly requested to take advantage of this opportunity by sending the material upon which their grievances are based, to the Director of the Special Organization, 8, Underhill Road, Delhi. This Organisation has been set up to collect the necessary material and to put it into such shape as will best enable the Right Honourable Sir Leslie Scott, K. C., M. P., to urge the whole case for the alteration of the present system, before the Indian States Committee.

In 1917 the majority of States sent the Political Department a statement of the grievances they entertained and the disabilities from which they suffered. From these statements the Political Department compiled the list known as the '23 points.'

It is requested that each State should include in the material they send to the Director as above asked a complete copy of the 1917 Statement with its annexes (if any). But the answers to the questions in Document No. 2 (sent out concurrently with this memorandum being Document No. 1) should follow strictly the classification of Document No. 2 and the material referred to in the 1917 statements should be reclassified in accordance with Document No. 2, States which are represented on the Chamber of Princes by representative members, should send their material straight to the Director. Any State which has a particular and individual case to urge, which it thinks may not harmonise with the general case, should forward the particulars of the case to the Director, who will obtain from

Sir Leslie Scott an opinion as to whether this case should be embodied in the general case, or should be urged quite separately. For this opinion he will consider the interests of the particular State as carefully as the interests of the general body of Princes.

(*F*) The first necessity is to establish the truth of the views summarized in para A above by means of the material to be sent in as asked in the last paragraph. That material will have to be examined critically to make sure that it contains sufficient proof, then analysed so as to bring out the true inferences. This will be one of the tasks to be performed by our Counsel.

(*G*) Assuming that after the Political and other Departments of the Government of India have been afforded proper opportunity of considering, criticising and supplementing it, the Princes' evidence is sufficient to prove the truth of the views expressed in para A above, the next step in our case will be to establish the Princes' view that the present system must be altered in order to get rid of the abovementioned defects. This conclusion should be almost self-evident once our views upon the defects are substantiated.

(*H*) The next step will be to consider what alterations in the system are needed in order to get rid of the defects. It is sound policy to avoid unnecessary alteration, to utilize all that is good in the existing system, and to make only such change as is necessary to effect a real cure. These are matters for deliberate reflection, discussion and careful decision and, the Princes will reserve their judgment upon any proposed scheme until the proposed alterations are fully elaborated. But the Indian States Committee expects us to assist them in their task, and it is to our plain interest to think out for ourselves what we believe will be the best changes for the attainment of our wishes. We can put forward as a basis of discussion and without in any way committing ourselves in advance, the broad outlines of what we think will, or at least may, be a good plan, and ask the Indian States Committee to co-operate with us in considering it submitting in plain terms to them that what is essential is to cure the defects in the existing system, and that we want to consider our proposals with the Committee and with the Government of India in order to see if they are well designed to bring about what we want.

(*I*) Without any intention of committing the Princes to anything, it is suggested that the following scheme will afford a useful basis for discussion.

It cannot however be too strongly emphasised that no Prince, who agrees to assist in the preparation of the case which will, we hope and believe, terminate for good all the drawbacks of the present system, is in any way bound without his specific concurrence, which will be individually sought at later stages, even to such broad outlines as are indicated below. It will only be at a later stage that he will have to decide whether he will adhere or not to a properly completed scheme.

(*J*) To meet the defects mentioned in para (A)'s (1) and (2), it is suggested that the relations between the Crown and the States should be conducted by the Viceroy (not the Governor-General who is a statutory creation).

The Viceroy will have an Executive States Council, just as the Governor-General has an Executive Council for British India. On the States Council, the Princes will be represented by say, 3 members of the Council selected by the Viceroy from a panel drawn up by the Chamber of Princes. The panel should consist of both Princes and Ministers or other well-qualified persons; possibly "Substitute" members might be included in the appointments to the Council. On this Council will also sit, say, two English members, preferably with no previous connection with India, but with diplomatic experience, and the Political Secretary.

The Viceroy in States Council will, in place of and to the exclusion of the Governor-General in Council, conduct the every day relations between the Government of India and the States, through the agency of the Political Department WHICH WILL BE UNDER THE CONTROL OF THE VICEROY IN STATES COUNCIL.

It may be necessary to give to the Viceroy a power of veto in certain events.

Every State will be free to bring any matter up to the States Council for consideration.

In matters of common concern to the States and British India, the States Council will meet the Governor-General's Council ON AN EQUAL FOOTING and thresh out each question on its merits, in a joint session in a Union Council presided over by the Viceroy and the Governor-General.

The Chamber of Princes should be given extended consultative powers and can be utilized with advantage by the States Council in order to obtain its advice particularly on matters involving a personal aspect.

It should have a free initiative; and should be able to work freely through Committees.

(*K*) In matters which are of a kind susceptible of judicial decision, such as questions of Treaty interpretation, encroachments upon Sovereign rights, agreements, etc., and disputes of fact, between the States and British India or between themselves or between a State and the States Council, there will be an unfettered right to resort to a Supreme Court of unquestioned competence and impartiality which will see,

(*i*) That the British Indian side of the Government does not encroach upon the States side, and *vice versa* if that be possible.

(*ii*) That the State's rights are in every case respected.

(*iii*) That British India and the States do not move outside their proper spheres as determined by their constitutional rights and obligations.

Such a Court can be utilized in other ways also to the great advantage of the States, *e.g.*, their financial credit would be improved by accepting the jurisdiction of the Court for claims by persons domiciled outside the States.

(*L*) The scheme outlined above will, it is believed, afford the States

(*i*) Complete protection of their Sovereign rights.

(*ii*) Redress of many of their grievances.

(*iii*) An opportunity of assisting in framing executive decisions which affect them.

(*iv*) A tribunal before which they can urge any case in which they believe they are wronged.

(*v*) An opportunity of bringing to the notice of THEIR OWN COUNCIL any incident in the everyday conduct of their relations of which they may have reason to complain.

(*vi*) An opportunity of making their influence felt in the destiny of India as a whole: of developing their States to the fullest capacity: and of contributing to the well-being of the whole Empire, and will bring to an end altogether any grievances arising out of the present regime of secrecy.

(M) As has been explained at the meetings at Delhi, one condition upon which the Princes can expect a sympathetic attitude on the part of the Government of India to the above plan, which it is hoped would give to the States the position of assured security which they desire, is that the States should be prepared to meet the desires of the Government of India in a reasonable manner on those aspects of the activities of the States upon which the Government of India takes strong views or has an important interest, *viz.*, the good Government of the States themselves and equitable and reciprocal co-operation with British India in matters of common concern—particularly in the economic and commercial field. For this reason this point was made clear at the meetings at Delhi, and general authority has been conferred on the Standing Committee to proceed with the scheme on the footing that reasonable and wise provisions consistent with the interests of the States and depending upon their approval should be incorporated in the provisional scheme to be put before the Indian States Committee.

It should be borne in mind that the above scheme is a mere outline and perhaps difficult to follow in the absence of more detail. A further statement will be circulated in good time before the meeting of the Princes which it is proposed to hold on the 19th April at Bombay. Any approval given at this stage will be purely provisional.

QUESTIONNAIRE ISSUED BY THE INDIAN STATES COMMITTEE.

The terms of reference are—

Introductory Remarks.

(1) to report upon the relationship between the Paramount Power and the States with particular reference to the rights and obligations arising from :—

(*a*) treaties, engagements and sanads, and

(*b*) usage, sufferance and other causes ;

(2) to enquire into the financial and economic relations between British India and the States and to make any recommendations that the Committee may consider desirable or necessary for their more satisfactory adjustment.

2. The Committee do not consider that the substance of part (1) of the terms of reference can be suitably dealt with by a questionnaire. Moreover, it is understood that the Standing Committee of the Chamber of Princes and a large number of the Princes and Chiefs present in Delhi for the meeting of the Chamber of Princes have obtained legal assistance on the general questions raised in regard to it and that the Committee will have the benefit of such assistance. Should any State wish to place its own views on record, it is hoped that it will do so.

3. It should be stated that the Committee are not empowered to deal with past decisions of the Paramount Power, or present differences between them and the States, except in so far as they illustrate, or bear upon, the relationship existing between the Paramount Power and the States. The Committee do not, however, desire to limit the evidence which the States may wish to bring forward in arguing their cases by referring to past decisions or present differences of opinion within the limits of the first part of the instructions, which refer only to the existing relationship, and in so far as they may consider it necessary to do so.

4. The questionnaire therefore deals with the second part of the instructions only. As the Indian States have not yet placed before the Committee the questions which they wish to bring forward, this questionnaire is based upon the records of the Political Department in so far as they relate to matters that have recently come under notice or discussion. Other questions than those covered by the questionnaire may therefore be raised by the States. The Committee are anxious that every opportunity should be given to the States to place their views before them in so far as they are covered by the terms of reference.

QUESTIONS.

Customs.

5. (*a*) Do the States claim a share of the Imperial customs revenue and, if so, on what grounds?

(*b*) Has the recent raising of customs duties adversely affected the States or their subjects? If so, please quote facts and figures.

(*c*) Would the States be prepared to abolish their own import and export duties on condition of receiving a share, to be agreed upon, of Imperial customs revenue?

(*d*) On what grounds do the Princes who are Members of the Chamber in their own right, other than those already enjoying exemption, claim exemption from the payment of customs duties on articles imported for the personal use of themselves or their families?

Railway Jurisdiction.

6. Have the States anything to add to the summary regarding jurisdiction over lands occupied by railways in their territories, as amended by the Standing Committee of the Chamber of Princes, on the 20th of August 1924? (See Annexure A.)

Mints and Currency.

7. Are there any considerations relative to this question which the States would like to bring before the Committee?

Dealings between Indian States and Capitalists and Financial Agents.

8. Have the States anything to add to the summary approved by the Chamber of Princes in November 1924, in regard to this question?

Manufacture and Export of Salt by the Durbars.

9. This subject is dealt with by treaties and agreements between the States and the Government of India. Have the States any representations to make in regard to it?

Post and Telegraphs.

10. Have the States any objection to the working of the existing system of telegraph and postal services within their territories and what claims do they make to the profits, if any, accruing from these services, and in the event of losses, would the States be prepared to share the losses?

11. What procedure would the States desire for the joint discussion of questions in which the interests of the States and the interests of British India may not be identical. Recently special Sub-Committees of Dewans have been appointed by the Standing Committee of the Chamber of Princes to confer with officers of the Government of India. Has this procedure been found to be satisfactory? If not, what procedure is suggested? Discussion of matters of joint interest to British India and the States.

12. Have the States any suggestions to make with regard to the general financial arrangements existing between them and British India? General financial relations.

13. Do the States desire to bring forward any questions in connection with opium? Opium.

14. Do the States desire to bring forward any questions in connection with Excise? Excise.

15. Do the States desire to bring forward any other questions, *vide* paragraph 4 above? General.

Annexure A.

SUMMARY AS AMENDED BY THE STANDING COMMITTEE OF THE CHAMBER OF PRINCES ON THE 20TH AUGUST 1924.

1. In 1891 the principle was laid down that, as soon as a Darbar railway became part of a line of communication between State territory on the one hand and British or State territory on the other, a cession of jurisdiction should be required. Subsequent developments have, however considerably modified the view then taken. It was, for instance, decided in 1893 that the orders should not be so interpreted as to require cession of jurisdiction over a line lying wholly within State limits but connected at one end with the British Railway system. Again, in 1898, a Darbar was permitted to retain jurisdiction over a portion of State Railway in spite of the fact that a portion of the line traversed another State. Three years later the orders were relaxed in another case, in which a Darbar was permitted to retain jurisdiction although the railway penetrated into British territory. In 1902 a further step in the same direction was taken, a Darbar being permitted to retain jurisdiction over a proposed railway even though it might subsequently form part of a line connected at both ends with the British system. The principle of the original orders has also been relaxed in several cases where lines pass through more than one State by permitting Darbars to retain jurisdiction over the portions of the lines within their respective limits.

2. In the case of railway lines over which full civil and criminal jurisdiction has been ceded, the policy of the Government of India has been to apply to those lands only such laws as are necessary for the administration of civil and criminal justice, together with the Railway, Post Office and Telegraph Acts. There are cases in which it has been found convenient to apply to such lands the laws of an adjoining British district *en bloc*, but all such laws are not enforced in those lands and fiscal laws particularly are not enforced, as it is not the policy of the Government of India to raise revenue from lands which are ceded for railway purposes. An Act such as the Excise Act is, however, applied to such lands when it is required to control the consumption of, and traffic in, liquor or railway stations, or to protect the excise revenue of British India. A law such as an Intoxicating Drugs Law may also be enacted for such lands when experience has shown that it is necessary to prevent smuggling through the railways, as much in the interests of the States themselves as of Government. Such a measure, though fiscal, is not revenue-producing, and the Government of India make no profit out of it.

3. The following are the conditions on which the Government of India are prepared to consent to the permanent retention of jurisdiction by States over the railways in their territories other than those which form parts of an important through route operated by the Government of India or by a Company in the profits of which the Government of India shares :-

(i) that the State or a Company or individual or association of individuals authorised by the State is either the owner of the Railway or at least has a substantial interest in it and works it;

(ii) that the State possesses proper machinery for the administration of justice ;

(iii) that adequate control over the working and maintenance of the line is retained either by the application of an enactment and rules similar to the Indian Railways Act and the rules made thereunder, or otherwise ;

(iv) that the State will grant permission for such inspections of the line by Government Railway officials as may be considered necessary.

4. In case of grave public emergency or in the strategic and military interests of the Empire, it is necessary to have unity of control, and the Imperial Government feel confident that they may rely on the Indian States to co-operate with them as may be necessary on such occasions.

5. In the case of serious failure to comply with conditions (ii), (iii) and (iv) in paragraph 3 above, the British Government may take such steps as are necessary to effect a remedy provided that where, in pursuance of this clause, it becomes ultimately necessary to take over jurisdiction, such jurisdiction shall be restored to the State concerned on its giving adequate assurances to the Government of India for the proper observance of the conditions in future.

II 4136/P.P 89-28-1
D 726/3/29

To

The Secretary to His Highness the
Chancellor, Chamber of Princes,
8, Underhill Road, DELHI.

Subject:- Jurisdiction over Railway lands
in Indian States.

* * *

Dear Sir,

With reference to your D.O. letter No.142 dated 23rd December 1928 and your telegram of the 15th March 1929, I am desired to say that the views of this Government on the above subject ~~xx xxxx~~ have already been communicated through the Mysore Residency in our letter No.Pol. 175 dated the 16th August 1926.

2. His Highness' Government understand that the two notes which form enclosures to your letter under reference contain a further expression of views by the ~~con-~~ concerned Departments of the Governmentof India and by the office of the Chancellor of Princes on this question, and that it is with reference to the fresh points raised in these notes, that a further expression of opinion of this Government is now asked for.

3. Appendix A is a statement of the existing practice, and an indication of the directions in which it might be modified in order that the extent of jurisdiction exercised by the Governmentof India over Railway lands in Indian States might be reduced to a minimum and rendered less

less irksome to the rulers of the States. His Highness' Government feel that this is a method of approach which offers - no satisfactory solution to the questions which have arisen in this State.

4 Apart from the well-known difficulties in the way of an efficient Police administration inseparable from a system which takes away from the State jurisdiction long strips of the ~~State~~ territory, we have of late felt ourselves handicapped in regard to fiscal administration also. As you are no doubt aware, the Government of India have ~~decided~~ declared that the profits earned by the M.& S.M.Railway Company from the management of the State lines and the income of the Company's employees are not liable to payment of income-tax to the State and that the proceeds of the tax should go to themselves notwithstanding their oft-repeated intention not to apply their fiscal laws to Railway lands for the purpose of raising revenue. They have further ~~decided~~ declares that the Municipal and other local authorities can levy no rates on Railway properties although the latter share in the amenities of the municipal administration. It would be a matter of little satisfaction if the Government of India reduced their jurisdiction to the minimum considered - necessary for proper Railway administration, so long as the State laws are inapplicable to Railway lands and so long as these lands continue under a separate

jurisdiction, with all the anomalies incidental to such an arrangement.

5 Coming to the note prepared by the Chancellor's Office, the main proposals contained in it are:-

(1) that complete and permanent retrocession of jurisdiction should be pressed with respect to non-strategical railways over which State administration has already exercised full jurisdiction in the past;

(2) that the Railway Board should be asked to select sections of non-strategic lines (important as well as unimportant) for experimental retrocession;

and (3) that in cases where jurisdiction must necessarily be retained by the Government of India, such jurisdiction should be confined to criminal and police powers over trains as distinguished from Railway lands.

6 With the first of the proposals mentioned above, His Highness' Government are in full agreement. The lines referred to, include the Bangalore-Harihar and Bangalore-Hindupur Sections of the Myosre State Railway over which, as pointed out in para 19 of the note "full and exclusive jurisdiction was once enjoyed" by the State. "It worked successfully for years without any occasion for complaint or protest and yet the State was made to part with that jurisdiction".

7 With regard to the second proposal,

viz.,experimental retrocession of jurisdiction over selected lines, it seemsto this Government that the matter cannot be settled on general principles only. The classification of railways into strategic and non-strategic, important and unimportant, etc., cannot be made easily and in a manner which would ensure acceptance by all the parties concerned. For instance, the Bangalore-Mysore Section of the Mysore Railways was once treated as part of a through route, but in deference to the views of this Durbar, the Government of India did not insist on cession of jurisdiction thereon. But this line is in many respects not dissimilar to the three other lines (viz.,Bangalore-Harihar, Bangalore-Hindupur and Bangalore-Kumarasamudram lines) over which the State has had to surrender jurisdiction to the Govemment of India. This shows that the distinction between important and unimportant routes is not always clear and that the State's claim to jurisdiction must not be made to depend upon distinctions which are necessarily arbitrary in their nature and which are susceptible of being applied to the prejudice of Indian States. The best way of dealing with the question, in theopinion of His Highness' Government, is to examine each case on its merits and to give back the jurisdiction on Railway lines to the State concerned, provided their laws and judicial machinery are such as to ensure efficient administration.

Where, however, a Railway line is of very short length or passes through several small States, it may be desirable for the Central Authority to retain jurisdiction over the line. But the general presumption must be in favour of leaving the jurisdiction with the States concerned, exceptions being admitted only on very substantial grounds of public convenience. If each case were examined in the light of this understanding, it is felt that the questions now under discussion would find speedier solution than by further endeavouring to find an agreed general formula, covering all classes of cases, which more than six years of discussion has not yet evolved.

8 As for the third proposal mentioned above, this Government are sceptical about the feasibility of seperating Police and Criminal Jurisdiction on trains, from that over Railway lands. The office note discusses the difficulties of such an arrangement but points out no convincing means of avoiding them. In the opinion of this Government, any seheme of concurrent jurisdiction must necessarily lead to anomalies. But if it must be a choice between several unsatisfactory alternatives, the scheme outlined in the note may perhaps be given a trial. It has however to be stated that such a scheme can have no application to the Railway lines in this State, which, considering their length, the fact that two of them are the property of the

State which once exercised jurisdiction thereon, and for other reasons urged by this Government from time to time, are more suitable for complete retrocession of jurisdiction.

9 Your D.O.letter No.142 dated 23-12-28 was received here on 30th December 1928 and as a reply was called for before the 2nd January 1929, the time available made it impossible for this Government to comply with the request. Now that it appears from your telegram dated 15th March 1929 that the matter is still awaiting consideration, I am asked to forward the views of this Government and to express the hope that they may be of some use to the Standing Committee in the formulation of its final proposals.

Yours sincerely,

D. O. letter No. 4136—P. P. 89-28-1, dated 25th/26th March 1929, from Mr. N. Madhava Rao, Chief Secretary to Government, to the Secretary to His Highness the Chancellor, Chamber of Princes, 8, Underhill Road, Delhi.

Subject.—JURISDICTION OVER RAILWAY LANDS IN INDIAN STATES.

With reference to your D. O. letter No. 142, dated 23rd December 1928 and your telegram of the 15th March 1929, I am desired to say that the views of this Government on the above subject have already been communicated through the Mysore Residency in our letter No. Pol. 175, dated the 16th August 1926.

2. His Highness' Government understand that the two notes which form enclosures to your letter under reference contain a further expression of views by the Departments of the Government of India concerned, and by the office of the Chancellor of Princes on this question, and that it is with reference to the fresh points raised in these notes, that a further expression of opinion of this Government is now asked for.

3. Appendix A is a statement of the existing practice, and an indication of the directions in which it might be modified in order that the extent of jurisdiction exercised by the Government of India over Railway lands in Indian States might be reduced to a minimum and rendered less irksome to the rulers of the States. His Highness' Government feel that this is a method of approach which offers no satisfactory solution to the questions which have arisen in this State.

4. Apart from the well-known difficulties in the way of an efficient police administration, inseparable from a system which takes away from the State's jurisdiction long strips of territory, we have of late felt ourselves handicapped in regard to fiscal administration also. As you are doubtless aware, the Government of India have declared that the profits earned by the Madras and Southern Mahratta Railway Company from the management of the State lines and the income of the Company's employees are not liable to payment of income-tax to the State and that the proceeds of the tax should go to themselves notwithstanding their oft-repeated intention not to apply their fiscal laws to Railway lands for the purpose of raising revenue. They have further declared that the Municipal and other local authorities can levy no rates on Railway properties although the latter share in the amenities of the municipal administration. It would be a matter of little satisfaction if the Government of India reduced their jurisdiction to the minimum considered necessary for proper Railway administration, so long as the State laws are inapplicable to Railway lands and so long as these lands continue under a separate jurisdiction, with all the anomalies incidental to such an arrangement.

5. Coming to the note prepared by the Chancellor's Office, the main proposals contained in it are :—

(1) that complete and permanent retrocession of jurisdiction should be pressed with respect to non-strategical railways over which State administration has already exercised full jurisdiction in the past ;

(2) that the Railway Board should be asked to select sections of non-strategic lines (important as well as unimportant) for experimental retrocession ; and

(3) that in cases where jurisdiction must necessarily be retained by the Government of India, such jurisdiction should be confined to criminal and police powers over trains as distinguished from Railway lands.

6. With the first of the proposals mentioned above, His Highness' Government are in full agreement. The lines referred to, include the Bangalore-Harihar and Bangalore-Hindupur Sections of the Mysore State Railway over which, as

pointed out in para 19 of the note, "full and exclusive jurisdiction was once enjoyed" by the State. "It worked successfully for years without any occasion for complaint or protest and yet the State was made to part with that jurisdiction."

7. With regard to the second proposal, *viz.*, experimental retrocession of jurisdiction over selected lines, it seems to this Government that the matter cannot be settled on general principles only. The classification of railways into strategic and non-strategic, important and unimportant, etc., cannot be made easily and in a manner which would ensure acceptance by all the parties concerned. For instance, the Bangalore-Mysore Section of the Mysore Railways was once treated as part of a through route, but in deference to the views of this Durbar, the Government of India did not insist on cession of jurisdiction thereon. But this line is in many respects not dissimilar to the three other lines (*viz.*, Bangalore-Harihar, Bangalore-Hindupur and Bangalore-Kamasamudram lines) over which the State has had to surrender jurisdiction to the Government of India. This shows that the distinction between important and unimportant routes is not always clear and that the State's claim to jurisdiction must not be made to depend upon distinctions which are necessarily arbitrary in their nature and which are susceptible of being applied to the prejudice of Indian States. The best way of dealing with the question, in the opinion of His Highness' Government, is to examine each case on its merits and to give back the jurisdiction on Railway lines to the State concerned, provided their laws and judicial machinery are such as to ensure efficient administration. Where, however, a Railway line is of very short length or passes through several small States, it may be desirable for the Central Authority to retain jurisdiction over the line. But the general presumption must be in favour of leaving the jurisdiction with the States concerned, exceptions being admitted only on very substantial grounds of public convenience. If each case were examined in the light of this understanding, it is felt that the questions now under discussion would find speedier solution than by further endeavouring to find an agreed general formula, covering all classes of cases, which more than six years of discussion has not yet evolved.

8. As for the third proposal mentioned above, this Government are sceptical about the feasibility of separating Police and Criminal Jurisdiction on trains, from that over Railway lands. The office note discusses the difficulties of such an arrangement but points out no convincing means of avoiding them. In the opinion of this Government, any scheme of concurrent jurisdiction must necessarily lead to anomalies. But if it must be a choice between several unsatisfactory alternatives, the scheme outlines in the note may perhaps be given a trial. It has, however, to be stated that such a scheme can have no application to the Railway lines in this State, which, considering their length, the fact that two of them are the property of the State which once exercised jurisdiction thereon, and for other reasons urged by this Government from time to time, are more suitable for complete retrocession of jurisdiction.

9. Your D.O. letter No. 142, dated 23rd December 1928 was received here on 30th December 1928 and as a reply was called for before the 2nd January 1929, the time available made it impossible for this Government to comply with the request. Now that it appears from your telegram dated 15th March 1929 that the matter is still awaiting consideration, I am asked to forward the views of this Government and to express the hope that they may be of some use to the Standing Committee in the formulation of its final proposals.

I

To

The Secretary to the

Hon'ble the Resident in Mysore.

Subject:- Retrocession of jurisdiction over Railway Lands in the State to the Mysore Government.

Sir,

I am directed to forward herewith a copy of my letter No. dated to the Secretary to His Highness the Chancellor of the Chamber of Princes conveying a further expression of the opinion of this Government on the subject of Railway Jurisdiction in Indian States. His Highness' Government have ventured to express the view that (any) further discussion of the question on general principles is likely to retard its solution and have urged that the claims of States might receive individual consideration from a practical point of view. Should this course be found feasible, I am to request that the representations made by this Government for retrocession of jurisdiction on the marginally noted Railway lines might be urged on the notice of the Government of India once again, for their favourable consideration.

Each State may be dealt with on its merits.

X Bangalore Harihar Line
Bangalore Kuppam Line
Bangalore Kannamangalam Line
Sethingpet to M.S.M. Ry

2. The grounds upon which this representation was made have been fully explained in the earlier correspondence on the subject, and more particularly in Mr. Balasundaram Iyer's letter No. 3873/62-G. dated 6th June 1948, to which kind reference is invited. It was ~~thereby~~ pointed out that the existence of a separate territorial jurisdiction over narrow strips of railway line within the State had resulted in inconvenient diversity of procedure and control. It was also urged that the Government of India having accepted it as a general principle that the jurisdiction of the railway police force should be co-terminous with the limits of the respective provinces, the (same) principle might well be extended to the State of Mysore. At the same time the Durbar expressed their readiness to adopt any measures that might be necessary ~~so as~~ to ensure uniformity with the British Indian system, and also to retransfer jurisdiction to the British Government, if and when imperial interests (should) demand such a course.

3. Recent experience has not only served to confirm the reasons for which restoration of jurisdiction was asked for but has also revealed certain fresh difficulties and anomalies inherent in the present system of divided jurisdiction. The position in regard

to fiscal matters, for instance, has become obscure and unsatisfactory. The Government of India have repeatedly declared that it is not their policy to raise revenue from lands ceded to them for Railway purposes. But they are levying income tax on these lands, while the State is deprived of the same, although it is from the management of railway properties belonging to it that the taxable income is derived. It has also been ruled that the Government of India cannot legally authorise local authorities in the State to recover municipal taxes from the Railway ~~although~~ while similar taxes are collected by local authorities in British India. The ~~difficulties~~ disabilities pointed out may or may not be very serious from the point of view of the amount involved ~~but they~~ but they illustrate in a significant manner, the anomalies, juristic and fiscal, inherent in the present system - anomalies which in course of time, may assume larger proportions.

4 The difficulties in the way of efficient Police administration are too well known to require ~~restoration~~ reiteration. (But) I am to invite reference to the practice which has come into vogue of calling upon the State Police to guard Railway lines on special occasions while the Railway (British) Police guard the Stations. The

necessity for such an arrangement is one more proof that the present system would be unworkable without the closest co-operation between the State and Railway Police and such co-operation could not be ensured, in satisfactory measure, unless both the forces were subject$ to a common control. It is in recognition of this principle that, as already stated, the Railway Police in British India are placed under the control of the respective Provincial Governments and an extension of this principle to a State like Mysore requires no special pleading.

5 His Highness' Government feel that it is perhaps unnecessary to repeat the assurance that the transfer of jurisdiction will not in any way hamper the smooth working of the Civil, Criminal and Railway Rys as enactments in force in the State are closely modelled on those of British India and are administered by agencies of admitted efficiency. And the fact that the State has been successfully exercising jurisdiction over about 400 miles of State Railway should remove any misgiving about the expediency of entrusting it with jurisdiction on the remaining sections of railway now in question.

6 It may be permissible to recall

in this connection that two of the lines under reference were constructed from Mysore revenues and are the property of the State, which exercised jurisdiction on them until the year 1893. The transfer of jurisdiction was asked for and obtained by the Government of India, not because of any inconvenience caused by the lines being under State jurisdiction, but in pursuance of a general and uniform policy which was thus explained:- "The principle which requires a cession of railway jurisdiction in all cases except on isolated local lines, is a principle from which the Government cannot depart". "The inconveniences that must follow an attempt to apportion railway jurisdiction in different States according to the comparative efficiency of the State administration are too great and obvious to be undertaken". But the Government of India proceed to add that they "willingly admit that if any State could be exceptionally treated, without grave inconvenience, they would be disposed to look with favour on the request of the Maharaja of Mysore". (Vide letter No. 1142-479-88 dated 9th April 1892 from General Sir Harry Prenderghast, Resident in Mysore to the Dewan of Mysore).

7 The principles upon which cession of jurisdiction was obtained in 1893 have undergone considerable change in recent

Rec facts, new Convention -6-han Sona Com. with thanks

years and there seems to be a prospect of a further advance on generous lines. From the summary regarding jurisdiction on railway lands, as amended by the Standing Committee of the Chamber of Princes on the 20th August 1924, it is gathered that the Government of India are prepared to consent to the retention of jurisdiction by Indian States over the railways in their territories, on the following conditions:-

(i) that the State or a Company or individual or association of individuals authorised by the State is either the owner of the Railway or at least has a substantial interest in it and works it;

(ii) that the State possesses proper machinery for the administration of justice;

(iii) that adequate control over the working and maintenance of the line is retained either by the application of an enactment and rules similar to the Indian Railways Act and the rules made thereunder, or otherwise;

(iv) that the State will grant permission for such inspections of the line by (Government) Railway officials as may be considered necessary.

8 It will be seen from what has been stated in the earlier part of this letter that all these conditions are satisfied

Mtg 4.09.

in the case of Hindupur-Bangalore, and Harihar-Bangalore Sections of the Mysore Railway, while conditions (2), (3) and (4) are fulfilled in the case of the Bangalore-Kamasamudra Section of the M & S. M. Railway.

9 His Highness' Government do not overlook the fact that the statement of policy just referred to expressly excludes from its scope "railways which form part of an important through route operated by the Government of India, or by a Company in the profits of which the Government of India shares". But it is submitted that the lines now in question cannot be considered to form part of an important through route any more than, for instance, the Bangalore-Mysore section of the Mysore Railways over which the State has been permitted to retain jurisdiction. The distinction between Railway lines which form through routes and those which do not is after all ~~somewhat~~ arbitrary, and has not been rigidly insisted upon in the past. And His Highness' Government trust, that it will not now be unduly pressed, to the prejudice of the States.

10 With this brief restatement of the case, His Highness' Government would leave the matter in the hands of the Government of India in the hope that the latter would be able to extend to this representation

the favourable consideration which they were prepared to accord (had the policy then in force permitted) to a similar request made by the Durbar in the year 1892 (vide para 6 above).

I have etc

Chief Secy to Govt.

RB 19/2/14.

B.K.M.

PP 89-28 2

To

The Secretary to the

Hon'ble the Resident in Mysore.

Subject:- Retrocession of jurisdiction over Railway Lands in the State to the Mysore Government.

Sir,

I am directed to forward herewith a copy of my letter No. dated to the Secretary to His Highness the Chancellor of the Chamber of Princes conveying a further expression of the opinion of this Government on the subject of Railway Jurisdiction in Indian States. His Highness' Government have ventured to express the view that a further discussion of the question on general principles is likely to retard, rather than facilitate, its solution, and have urged that the claims of each State may be dealt with on ~~its~~ their own merits. Should this course be found feasible, I am to request that the representations made by this Government for retrocession of jurisdiction on the marginally noted Railway lines may be urged ~~on~~ upon the notice of the Government of India once again, for their favourable consideration.

Bangalore Harihar line
Bangalore Hindupur line
Bangalore Kamasamudram section of the M.S.M. Railway.

2. The grounds upon which ~~this~~ their representation ~~was~~ now made have been fully explained in the earlier correspondence on the subject, and more particularly in Mr. Balasundaram Iyer's letter No.3873/62G dated 6th June 1928 (copy enclosed), to which kind reference is invited

It was pointed out there that the existence of a separate territorial jurisdiction over narrow strips of railway line within the State had resulted in inconvenient diversity of procedure and control. It was also urged that the Government of India having accepted it as a general principle that the jurisdiction of the railway police force should be co-terminous with the limits of the respective provinces, the principle might well be extended to the State of Mysore. At the same time, the Durbar expressed their readiness to adopt any measures that might be considered necessary by the Government of India to ensure uniformity with the British Indian system, and also to retransfer jurisdiction to the British Government, if and when imperial interests demanded such a course.

3. Recent experience has not only served to confirm the reasons for which restoration of jurisdiction was asked for but has also revealed certain fresh difficulties and anomalies inherent in the present system of divided jurisdiction. The position in regard to fiscal matters, for instance, has become obscure and unsatisfactory. The Government of India have repeatedly declared that it is not their -- policy to raise revenue from lands ceded to them for Railway purposes. But they are in practice levying income tax on these lands, and while the State is deprived of ~~the same~~ thro, although it is from the management of railway properties belonging to the State that the taxable income is derived. It has also been ruled that the Government of India cannot --

legally authorise local authorities in the State to recover municipal taxes from the Railway, though similar taxes are collected by local authorities in British India. The disabilities pointed out may or may not be very serious from the point of view of the amount involved, but they illustrate in a significant manner, the anomalies, juristic and fiscal, inherent in the present system - anomalies which, in course of time, may -- assume larger and more serious proportions.

4. The difficulties in the way of efficient Police administration under present conditions are too well known to require reiteration. I am to invite reference to the practice which has come into vogue of calling upon the State Police to guard -- Railway lines on special occasions though those lines are outside the State's jurisdiction. The necessity for such an arrangement is one more proof that the present system would be unworkable without the - closest co-operation between the State and Railway Police; and such co-operation cannot be ensured, in satisfactory measure, unless both the forces are subject to a common control. It is in recognition of this principle that, ~~as already stated~~, the Railway Police in British India are placed under the control of the respective Provincial Governments, and an extension of this principle to a State like Mysore requires no special pleading.

His Highness' Government feel that

it is perhaps unnecessary to repeat the assurance that the transfer of jurisdiction will not in any way hamper the smooth working of the Railways as the Civil, Criminal, and Railway enactments in force in the State are -- closely modelled on those of British India, and are administered by agencies of admitted efficiency. And the fact that the State has been successfully exercising jurisdiction over about 400 miles of State Railway should remove any misgiving about the expediency of entrusting it with jurisdiction on the remaining - sections of railway now in question.

It may be permissible to recall in this connection that two of the lines under reference were constructed from Mysore revenues and are the property of the State, which - exercised jurisdiction ~~on~~ both them until the year 1893. The transfer of jurisdiction was asked for and obtained by the Government of India, not because of any inconvenience caused by the lines being under State jurisdiction, but in pursuance of a general and uniform policy which was thus explained:- "The principle which requires a cession of railway jurisdiction in all cases except on isolated local lines, is a principle from which the Government cannot depart". "The inconveniences that must follow an attempt to apportion railway jurisdiction in different States according to the comparative efficiency of the State -- administration are too great and obvious to be undertaken". But the Government of India proceed to add that they "willingly admit that

any State could be exceptionally treated, without grave inconvenience, they would be disposed to look with favour on the request of the Maharaja of Mysore". (Vide letter No.1142-479-88 dated 9th April 1892 from General Sir Harry Prenderghast, Resident in Mysore to the Dewan of Mysore.)

The principles upon which cession of jurisdiction was obtained in 1893 have undergone considerable change in recent years, - new facts and new conditions have since come into existence and there seems to be a prospect of a further advance on generous lines. From the summary regarding jurisdiction on railway lands, as amended by the Standing - Committee of the Chamber of Princes on the 20th August 1924, it is gathered that the Government of India are prepared to consent to the retention of jurisdiction by Indian States over the railways in their territories on the following conditions:-

(i) that the State or a Company or individual or association of individuals - authorised by the State is either the owner of the Railway or at least has a substantial interest in it and works it;

(ii) that the State possesses proper machinery for the administration of justice;

(iii) that adequate control over the working and maintenance of the line is retained either by the application of an enactment and rules similar to the Indian Railways Act and the rules made thereunder, or otherwise;

(iv) that the State will grant permission for such inspections of the line by Railway officials of the Government of India as may be considered necessary.

It will be seen from what has been stated in the earlier part of this letter that all these conditions are satisfied in the case of the Hindupur - Bangalore, and Harihar - Bangalore Sections of the Mysore Railway, - while conditions (2), (3) and (4) are fulfilled in the case of the Bangalore - Kamasamudra Section of the M. & S.M.Railway.

His Highness' Government do not overlook the fact that the statement of policy - just referred to expressly excludes from its scope "railways which form part of an important through route operated by the Government of India, or by a Company in the profits of which the Government of India shares". But it is submitted that the lines now in question cannot be considered to form part of an -- important through route any more than, for instance, the Bangalore - Mysore section of the Mysore Railways over which the State has been permitted to retain jurisdiction. The distinction between Railway lines which form through routes and those which do not is after all arbitrary, and has not been rigidly insisted upon in the past. And His Highness' Government trust that it will not now be unduly pressed, to the prejudice of the States.

With this brief restatement of the case, His Highness' Government would leave th

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I have etc.

Ch. Secy. to Government.

To

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

SUBJECT:—*Retrocession of jurisdiction over Railway Lands in the State to the Mysore Government.*

SIR,

I am directed to forward herewith a copy of ~~my~~ letter No. 4136 — P.P. dated the 26th March 1929 to the Secretary to His Highness the Chancellor of the Chamber of Princes conveying a further expression of the opinion of this Government on the subject of Railway Jurisdiction in Indian States. His Highness' Government have ventured to express the view that a further discussion of the question on general principles is likely to retard, rather than facilitate, its solution, and have urged that the claims of each State may be dealt with on their own merits. Should this course be found feasible, I am to request that the representations made by this Government for retrocession of jurisdiction on the marginally noted Railway lines may be urged upon the notice of the Government of India once again, for their favourable consideration.

Bangalore-Harihar line.
Bangalore-Hindupur line.
Bangalore-Kamasamudram section of the M. & S. M. Railway.

2. The grounds upon which these representations ~~to be~~ made have been fully explained in the earlier correspondence on the subject, and more particularly in Mr. Balasundaram Iyer's letter No. 3873—62 G., dated 6th June 1928 (copy enclosed), to which kind reference is invited. It was pointed out there that the existence of a separate territorial jurisdiction over narrow strips of railway line within the State had resulted in inconvenient diversity of procedure and control. It was also urged that the Government of India having accepted it as a general principle that the jurisdiction of the railway police force should be co-terminous with the limits of the respective provinces, the principle might well be extended to the State of Mysore. At the same time, the Durbar expressed their readiness to adopt any measures that might be considered necessary by the Government of India to ensure uniformity with the British Indian system, and also to retransfer jurisdiction to the British Government, if and when imperial interests demanded such a course.

3. Recent experience has not only served to confirm the reasons for which restoration of jurisdiction was asked for but has also revealed certain fresh difficulties and anomalies inherent in the present system of divided jurisdiction. The position in regard to fiscal matters, for

instance, has become obscure and unsatisfactory. The Government of India have repeatedly declared that it is not their policy to raise revenue from lands ceded to them for Railway purposes. But they are in practice levying income-tax on these lands, and the State is deprived of this, although it is from the management of railway properties belonging to the State that the taxable income is derived. It has also been ruled that the Government of India cannot legally authorise local authorities in the State to recover municipal taxes from the Railway, though similar taxes are collected by local authorities in British India. The disabilities pointed out may or may not be very serious from the point of view of the amount involved, but they illustrate in a significant manner, the anomalies, juristic and fiscal, inherent in the present system anomalies which, in course of time, may assume larger and more serious proportions.

4. The difficulties in the way of efficient Police administration under present conditions are too well known to require reiteration. I am to invite reference to the practice which has come into vogue of calling upon the State Police to guard Railway lines on special occasions though those lines are outside the State's jurisdiction. The necessity for such an arrangement is one more proof that the present system would be unworkable without the closest co-operation between the State and Railway Police; and such co-operation cannot be ensured, in satisfactory measure, unless both the forces are subject to a common control. It is in recognition of this principle that the Railway Police in British India are placed under the control of the respective Provincial Governments, and an extension of this principle to a State like Mysore requires no special pleading.

5. His Highness' Government feel that it is perhaps unnecessary to repeat the assurance that the transfer of jurisdiction will not in any way hamper the smooth working of the Railways as the Civil, Criminal, and Railway enactments in force in the State are closely modelled on those of British India, and are administered by agencies of admitted efficiency. And the fact that the State has been successfully exercising jurisdiction over about 400 miles of State Railway should remove any misgiving about the expediency of entrusting it with jurisdiction on the remaining sections of railway now in question.

6. It may be permissible to recall in this connection that two of the lines under reference were constructed from Mysore revenues and are the property of the State, which exercised jurisdiction over them until the year 1893. The transfer of jurisdiction was asked for and obtained by the Government of India, not because of any inconvenience caused by the lines being under State jurisdiction, but in pursuance of a general and uniform policy which was thus explained :—

"The principle which requires a cession of railway jurisdiction in all cases except on isolated local lines, is a principle from which the Government cannot depart." "The inconveniences that must follow an attempt to apportion railway jurisdiction in different States according to the comparative efficiency of the State administration are too great and obvious to be undertaken." But the Government of India proceed to add that they "willingly admit that if any State could be exceptionally treated, without grave inconvenience, they would be disposed to look with favour on the request of the Maharaja of Mysore." (*Vide* letter No. 1142-479-88, dated 9th April 1892, from General Sir Harry Prenderghast, Resident in Mysore to the Dewan of Mysore.)

7 The principles upon which cession of jurisdiction was obtained in 1893 have undergone considerable change in recent years, new facts and new conditions have since come into existence and there seems to be a prospect of a further advance on generous lines. From the summary regarding jurisdiction on railway lands, as amended by the Standing Committee of the Chamber of Princes on the 20th August 1924, it is gathered that the Government of India are prepared to consent to the retention of jurisdiction by Indian States over the railways in their territories, on the following conditions:—

(i) that the State or a Company or individual or association of individuals authorised by the State is either the owner of the Railway or at least has a substantial interest in it and works it;

(ii) that the State possesses proper machinery for the administration of justice;

(iii) that adequate control over the working and maintenance of the line is retained either by the application of an enactment and rules similar to the Indian Railways Act and the rules made thereunder, or otherwise;

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9 His Highness' Government do not overlook the fact that the statement of policy just referred to expressly excludes from its scope "railways which form part of an important through route operated by the Government of India, or by a Company in the profits of which the Government of India shares." But it is submitted that the lines

now in question cannot be considered to form part of an important through route any more than, for instance, the Bangalore-Mysore section of the Mysore Railways over which the State has been permitted to retain jurisdiction. The distinction between Railway lines which form through routes and those which do not is after all arbitrary, and has not been rigidly insisted upon in the past. And His Highness' Government trust that it will not now be unduly pressed, to the prejudice of the State.

10 With this brief restatement of the case, His Highness' Government would leave the matter in the hands of the Government of India in the hope that the latter will be able to extend to this representation the favourable consideration which they were prepared to accord (had the policy then in force permitted it) to a similar request made by the Durbar in the year 1892 (*vide* para 6 above).

I have the honor to be
Sir,
Your most obedient servant,

Chief Secretary to Government.

No. Pol. 981—P. P. 89-28-2.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE,

General and Revenue Secretariat,

Dated, Bangalore, 27th March 1929.

From

R. RANGA RAO, ESQ., B.A., B.L.,
Offg. Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

MAJOR G. LOCH, I.A.,
Secretary to the Hon'ble the Resident in Mysore.

SUBJECT:—*Retrocession of jurisdiction over Railway Lands in the State to the Mysore Government.*

SIR,

I am directed to forward herewith a copy of Mr. Madhava Rao's letter No. 4136—P. P., dated the 26th March 1929 to the Secretary to His Highness the Chancellor of the Chamber of Princes conveying a further expression of the opinion of this Government on the subject of Railway Jurisdiction in Indian States. His Highness' Government have ventured to express the view that a further discussion of the question on general principles is likely to retard, rather than facilitate, its solution, and have urged that the claims of each State may be dealt with on their own merits. Should this course be found feasible, I am to request that the representations made by this Government for retrocession of jurisdiction on the marginally noted Railway lines may be urged upon the notice of the Government of India once again, for their favourable consideration.

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India to ensure uniformity with the British Indian system, and also to retransfer jurisdiction to the British Government, if and when imperial interests demanded such a course.

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I have the honor to be,
Sir,
Your most obedient servant,
R. RANGA RAO,
Offg. *Chief Secretary to Government.*

Mr. Balasundaram Iyer,

Letter No.3873/626 dated 6th June 1918 from the Chief Secretary, Mysore Government to the First Assistant to the Hon'ble the Resident in Mysore.

I am directed to address you on the question of jurisdiction over the railway lands within the territories of Mysore.

2. The reasons why the Durbar desire to retain jurisdiction over all the railway lines in Mysore in their own hands were dealt with exhaustively and from all points of view in the representations made by the Durbar in the course of the correspondence ending with Major Ravenshaw's letter No.985-479-88, dated the 21st March 1893, to which a reference is invited. It will be observed that the Governmentof India then viewed the matter as one of Imperial policy and expressed their inability to accede to the Durbar's wishes. It is now 25 years since the above decision was reached and the Durbar feel that, in the altered conditions of the present time and in view of the present policy of the Government of India towards Indian States, the whole position will bear re-examination and re-consideration.

3. While communicating the above decision on the general question of pricniple, the Governmentof India were, however, pleased to exclude the Bangalore-Nanjangud line from its application so that jurisdiction over this section has always remained with the Durbar. A similar exception was made with regard to the Birur-Shimoga Railway subsequently opened in 1899. Over the Kolar Gold Fields Railway the Durbar were allowed toresume jurisdiction, as an experimental measure for a year in 1913, and permanently in 1915. The Durbar's wishes in this respect have been complied with in the case also of lines newly opened within the past few years, viz., the Chikballapur Light Railway and the Mysore-Arsikere Railway In all these cases, however, the jurisdiction exercised by the Durbar is subject generally to the condition that it is liable

liable to be ceded to the British Government if the lines are extended beyond the limits of the State or if Imperial interests require such cession. Thus, under the existing arrangement, the only railway lines in the State that continue to be subject to British Jurisdiction are the Bangalore-Harihar and Yesavantapur-Hindupur of the Mysore State Railway and the Bangalore-Kamasandra Section of the M.& S.M. Railway and this jurisdiction is exercised by the authorities of the Civil and Military Station, Bangalore, and under the laws in force there. This arrangement has resulted in an inconvenient diversity of procedure and control in the matter of territorial jurisdiction over narrow strips of land within the State, and the inconvenience on this account is likely to be accentuated with the further expansion of railways, which the Durbar have under contemplation.

4. I am in this connection to invite attention to the recommendation of the Indian Police Commission on the question under advertence. They advocated the adoption, as a general rule of the provincial system of Railway Police, which was unanimously endorsed by the Local Governments. The Government of India have also accepted it as a general principle that the jurisdiction of the Railway Police forces should be coterminous with the limits of the respective Provinces. With regard to lines running through Native States, however, the Commissioners deemed it necessary to except them from the general rule. But it is not clear from their report on what considerations they recommend such a departure in principle with regard to Native States in general. In British India there is no Imperial Police force and the Railway Police in each Province is provided by the Local Government. As in British Indian Provinces, there is now a separate officer in charge of the Railway Police in Mysore and the State Police, which is maintained in a state of efficiency, may be expected, as hitherto, to cooperate with the British Police in bringing offenders to justice. The State is surrounded on all sides by British

~~xxixxxxsxystxxx~~ territory and to secure uniformity with the British Indian system, the Durbar are quite prepared to adopt all necessary and reasonable measures, administrative as well as legislative, that may be necessary, so that ~~xx~~ no complications might arise. The Durbar venture to think that under these circumstances no inconvenience is likely to result if the Provincial system of police jurisdiction over railway lines, which has received such influential support and general acceptance, is extended to Mysore, and that at any rate there is no reason to apprehend any greater inconvenience or difficulty from the Durbar exercising jurisdiction over through lines than may be experienced from the provincialisation of the Railway police in British India.

5. The retransfer of jurisdiction now desired by the Durbar is in respect of the three through lines specified in paragraph 3 above and it is scarcely necessary to add that such retrocession, if conceded by the Government of India, will be subject to the understanding that it is liable to be re-transferred to them if and when Imperial interests demand such a course.

6. The Durbar will esteem it a favour if the Hon'ble the Resident will kindly give his best consideration to this question and use his good offices with the Government of India to obtain a favourable decision.

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Letter No.3873/626 dated 6th June 1918 from Mr. Balasundaram Iyer, Chief Secretary, Mysore Government, to the First Assistant to the Hon'ble the Resident in Mysore.

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respect have been complied with in the case also of lines newly opened within the past few years, viz., the Chikballapur Light Railway and the Mysore-Arsikere Railway. In all these cases, however, the jurisdiction exercised by the Durbar is subject generally to the condition that it is liable to be ceded to the British Government if the lines are extended beyond the limits of the State or if Imperial interests require such cession. Thus, under the existing arrangement, the only railway lines in the State that tontinue to be subject to British Jurisdiction are the Bangalore-Harihar and Yesavantapur-Hindupur of the Mysore State Railway and the Bangalore-Kamasandra Section of the M.& S.M. Railway and this jurisdiction is exercised by the authorities of the Civil and Military Station, Bangalore, and under the laws in force there. This arrangement has resulted in an inconvenient diversity of procedure and control in the matter of territorial jurisdiction over narrow strips of land within the State, and the inconvenience on this account is likely to be accentuated with the further expansion of railways, which the Durbar have under contemplation.

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considerations they recommend such a departure in principle with regard to Native States in general. In British India there is no Imperial Police force and the Railway Police in each Province is provided by the Local Government. As in British Indian Provinces, there is now a separate officer in charge of the Railway Police in Mysore and the State Police, which is maintained in a state of efficiency, may be expected, as hitherto, to co-operate with the British Police in bringing offenders to justice. The State is surrounded on all sides by British territory and to secure uniformity with the British Indian system, the Durbar are quite prepared to adopt all necessary and reasonable measures, administrative as well as legislative, that may be necessary, so that no complications might arise. The Durbar venture to think that under these circumstances no inconvenience is likely to result if the Provincial system of police jurisdiction over railway lines, which has received such influential support and general acceptance, is extended to Mysore, and that at any rate there is no reason to apprehend any greater inconvenience or difficulty from the Durbar exercising jurisdiction over through lines than may be experienced from the provincialisation of the Railway police in British India.

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6. The Durbar will esteem it a favour if the Hon'ble the Resident will kindly give his best consideration to

to this question and use his good offices with the Government of India to obtain a favourable decision.

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"COPY"

R. Rangadhan.

Offg. Chief Secretary to Govt.

9/

No. R. S. 2335

RAILWAY SECRETARIAT,

Mysore, 3rd May 1929.

CA 3980

FROM

Khan Bahadur ABDUL AZIZ KHAN,
Secretary to the Government of Mysore for Railways,
Mysore

PP 89-28-3

To

The Chief Secretary to Government,
Bangalore.

PP 4/5/29

RE-TRANSFER OF JURISDICTION OVER RAILWAY LANDS IN THE STATE.

Sir,

I have the honour to invite reference to your letter No.3922/P.P., dated 6th March 1929, and to request that you will be so good as to return this office file 151G.Sec.4 of 1916-17 to 1919-20 regarding the re-transfer of jurisdiction over Railway lands in the State if the same is no longer required.

I have the honour to be,
Sir,
Your most obedient servant,

For Secretary for Railways.

SAK.

4th May 1929

4853 PP 89-20-4

Khan Bahadur Abdul Aziz Khan,
Secretary to Government for Railways in Mysore.

With reference to your letter No.2335 dated the 3rd instant I am directed to forward herewith your office file No.151G Section of 1916-17 to 1919-20 regarding the retransfer of jurisdiction over railway lands in the State.

I have the honor to be,
Sir,
Your most obedient servant,

For Offg:Chief Secretary to Government.

B.K.M.

CB 1571.

RAILWAY DEPARTMENT.
(RAILWAY BOARD.)

Simla, 15th October 1929.

Dear Mr. Ismail,

I am writing, with reference to your D.O. of the 1st October, to let you know that I am handing over charge of the office of Chief Commissioner to-day to Mr. T.G.Russell, who was lately Agent of the G.I.P.Railway. I am afraid it is too late for me to do anything in regard to your D.O. and letter No. 1271-P.P. of the 2nd October 1929, but I have no doubt that Mr. Russell will give it sympathetic consideration.

2. I think it is quite likely that Mr. Russell will be paying a visit to South India in December or January, and I have no doubt that you will meet him if he carries out that plan.

I must now wish you farewell as I shall be leaving India almost directly.

Yours sincerely,

H. Hadow.

Amin-ul-Mulk Mirza M. Ismail,
C.I.E., O.B.E.,
Dewan of Mysore,
Mysore.

D.O. No. 1509.

Lake View, Mysore,
19th October 1929.

Dear Sir Austen,

I am obliged to you for your letter of October 15 from Simla, regarding our representation about the resumption of the Bangalore - Harihar line. I quite realise that owing to shortness of time, a decision could not be taken on this matter before your relinquishment of office, but I feel sure you would have paved the way for your successor to interest himself in the question on our behalf.

I am looking forward to meeting Mr. Russell during his proposed tour in South India and having a personal discussion of the subject with him.

I read your speech at the Railway Conference the other day with much interest. It was indeed a luminous survey of the outstanding problems affecting the Indian Railways.

With very best wishes for your safe journey home, & for a life of health & happiness in your own country.

Yours sincerely,

Sd. Mirza M. Ismail

DEWAN'S OFFICE
22 OCT. 1929
No. 312

All communications should be addressed to the Secretary to the Resident in Mysore Bangalore, by designation and not by name.

No. 1175 Enc.
86-1929

CB-2944

From

Pol. 1154.

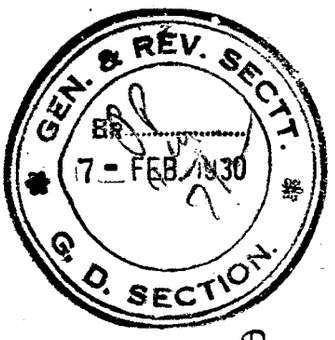
Major G. Loch,
SECRETARY TO THE RESIDENT IN MYSORE.

89-28-5

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore

Dated Bangalore, 7th February 1930.



B

Subject.

Retrocession to the Government of Mysore of jurisdiction over railway lands in the State.

Sir,

I am directed to refer to your letter No.Pol.981-P.P. 89-28-2, dated the 27th March 1929, regarding the request of the Government of Mysore for the retrocession of jurisdiction over railway lands in the Mysore State, and to say that the Government of India state that they will take into consideration the arguments advanced by the Government of Mysore in their letter, when dealing with the various recommendations made by the Indian States Committee in paragraphs 89-92 of their Report.

I have the honour to be,
Sir,
Your most obedient servant,

G Loch

Major,
SECRETARY TO THE RESIDENT.

B.

VKB
6/2